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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1987

COMPLETED
7/28
ORIGINAL

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

NEAL SMITH, Iowa, *Chairman*

BILL ALEXANDER, Arkansas	GEORGE M. O'BRIEN, Illinois
JOSEPH D. EARLY, Massachusetts	RALPH REGULA, Ohio
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BOB CARR, Michigan	
EDWARD P. BOLAND, Massachusetts	

JOHN G. OSTHAUS and TERRY D. BEVELS, *Staff Assistants*

PART 1

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Federal Maritime Commission 309
Securities and Exchange Commission 373
Commission on Civil Rights 525

Printed for the use of the Committee on Appropriations

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1987

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Printed for the use of the Committee on Appropriations

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58-651 WASHINGTON : 1986

I

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DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1987

WEDNESDAY, FEBRUARY 19, 1986.

STATE JUSTICE INSTITUTE

WITNESSES

EDWARD F. HENNESSY, CHIEF JUSTICE OF THE SUPREME JUDICIAL COURT OF MASSACHUSETTS AND PRESIDENT, CONFERENCE OF CHIEF JUSTICES

HARRY SWEGLE, WASHINGTON LIAISON FOR THE CONFERENCE OF CHIEF JUSTICES

OPENING STATEMENT

Mr. SMITH. Good morning. There will be a few more Members coming in later.

We will begin with the State Justice Institute budget request for fiscal 1987. The request is submitted by the Conference of Chief Justices, and is $9,834,000. That's an increase of $2,178,000 above the adjusted fiscal 1986 appropriation level after the sequestration of $344,000 has been deleted from the enacted 1986 bill.

The President's budget proposes to rescind the 1986 appropriation and proposes zero funding for 1987.

Here to testify on behalf of the budget request for the Institute is the Honorable Edward F. Hennessey, the Chief Justice of the Supreme Judicial Court of Massachusetts. We will insert at this point in the record the letter of February 3rd from the president of the Conference of Chief Justices which contains the detail of this request.

[Material referred to follows:]

Conference of Chief Justices

PRESIDENT
Edward F. Hennessey
Chief Justice, Supreme Judicial
Court of Massachusetts
Court House
Boston, Massachusetts 02108
(617) 725-8010

Secretariat
National Center for State Courts
300 Newport Avenue
Williamsburg, Virginia 23187-8798
(804) 253-2000

February 3, 1986

Honorable Jamie L. Whitten
Chairman, Committee on Appropriations
H-218 The Capitol
Washington, D.C. 20515

Dear Mr. Chairman:

I am submitting for the consideration of your Committee a proposed budget amendment to fund the State Justice Institute in Fiscal Year 1987. The request is for $9,834,000. This is $5,166,000 below the authorized funding level of $15,000,000.

This submission, as with that for Fiscal 1986, is being made by the Conference of Chief Justices pending appointment of a board of directors and formal organization of the Institute as authorized by Title II of Public Law 98-620, the State Justice Institute Act. The Act provides that the Institute, as an independent corporation, make its budget submissions directly to Congress. The role of the Office of Management and Budget is limited to that of review and comment.

It is our understanding that the President has selected his nominees to the Institute's board of directors and that field investigations are being completed so that their names can be submitted to the Senate for confirmation. The authorizing statute requires these nominations to be made within 90 days after October 1, 1985, the effective date of the Act. Accordingly, we had anticipated that a board of directors would be in place by January 1. It now appears that the names will be submitted to the Senate momentarily and that the board still can hold its first meeting early this year.

The role being played by the Conference of Chief Justices in the budget process results from the fact that the authorizing legislation made the effective date of the Act coincide with the beginning of the first year of budget authority, Fiscal 1986. Because budget authority extends for only three years, through Fiscal 1988, the Institute would lose two-thirds of its authorized time if appropriation requests were not made in a timely manner. Thus, the request for Fiscal 1986 had to be made early in 1985, some eight months before the effective date of the Act. Similarly, the second request is being made at the beginning of February, 1986, only four months after the effective date and while the selection and confirmation process for the board of directors still is underway.

Under the Act the Conference of Chief Justices is the nominating authority for a majority of the members of the Institute's board of directors, i.e., the President appoints seven of the board's 11 members from a panel of nominees submitted to him by the Conference. Our panel of nominees, selected after soliciting the views of all interested organizations and individuals, was forwarded to the President on September 17, 1985.

The total requested for Fiscal 1987 is $1,834,000 above the $8,000,000 appropriated for Fiscal 1986, but does not represent a major increase in the funding level. This is because the Fiscal 1986 appropriation was projected for an initial operating year of 10 months or less while the Fiscal 1987 request is to fund the first full year of operation. Administrative expenses, at $834,000, are only 8.49 percent of the total requested. This compares to the $715,000, or 8.94 percent authorized by Congress for the shorter operating period of Fiscal 1986. The increase in the grant program not only reflects the longer operating year but the program growth projected by the authorizing legislation which increases the funding authority from $13,000,000 in Fiscal 1986 to $15,000,000 in Fiscal 1987 and 1988.

The justification and detail for the Fiscal 1987 request is enclosed along with the various schedules required by OMB Circular No. A-11. Copies of this letter of transmittal and the supporting materials also are being transmitted to the Office of Management and Budget.

Should you need additional background materials or have questions regarding this request please contact Mr. Harry W. Swegle, our Washington Liaison, at 202/347-5924.

Sincerely yours,

Edward F. Hennessey

Edward F. Hennessey
President

EFH//hws

Enclosures

cc: Honorable Neal Smith
Chairman, Subcommittee on Commerce,
Justice, State and the Judiciary

Honorable James C. Miller, III
Director, Office of Management and Budget

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised

INDEPENDENT AGENCIES

STATE JUSTICE INSTITUTE

Identification code 48-0052-0-1-752	1987	1987	1987
Budget Appendix page	Heading	Request Pending	Proposed Amendment	Revised Request

Budget Appendix page	Heading	Request Pending	Proposed Amendment	Revised Request
...	State Justice Institute. For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620.	.....	$9,834,000	$9,834,000

BEST COPY AVAILABLE

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Conference of Chief Justices

PRESIDENT
Edward F. Hennessey
Chief Justice, Supreme Judicial
Court of Massachusetts
Court House
Boston, Massachusetts 02108
(617) 725-8010

Secretariat
National Center for State Courts
300 Newport Avenue
Williamsburg, Virginia 23187-8798
(804) 253-2000

March 5, 1986

Honorable Neal Smith
Chairman, Appropriation Subcommittee on Commerce,
Justice, State, and the Judiciary
H-309 The Capitol
Washington, D.C. 20515

Dear Mr. Chairman:

This is to request amendments to the budget requests made by the Conference of Chief Justices for the State Justice Institute in order to extend the availability of funds.

Unfortunately, we were not advised of the need for specific authority in this regard when the budget submissions were made for Fiscal 1986 and 1987. Therefore, we are attaching an amended Standard Form 300 asking that the grant funds requested for Fiscal 1987 remain available until expended. We also request that a similar amendment, in the Supplemental for Fiscal 1986, apply to the grant portion of the funds already appropriated.

This issue came to our attention as a result of questions for the record submitted by you and Mr. O'Brien when I testified before your subcommittee on February 19. In preparing our answers it became apparent that it will be necessary to plan and execute the Institute's grant program on a multi-year basis and that this will require authority to carry funds over from one year to the next. In checking this point, however, we learned that neither the 1986 Act nor the pending 1987 request contains language authorizing continued availability of funds.

It is our understanding that such continuing availability is a standard feature of appropriations for federal grant programs. Further, as we note in our prepared statement and supplemental answers for the hearing record, the Institute is authorized for only three years and must prove itself in that limited time. Given the unavoidable delay in getting the Institute organized, and the need to fund programs that will require more than one year for completion, it is essential that the Institute's managers be able to draw plans and commit funds on a multi-year basis.

Thank you again for your attention to the needs of this important new program.

Sincerely yours,

Edward F. Hennessey

Edward F. Hennessey
President

Encl:

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STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised

INDEPENDENT AGENCIES

STATE JUSTICE INSTITUTE

48-0052-0-1-752		1987	1987	1987
Budget Appendix page	Heading	Request Pending	Proposed Amendment	Revised Request
...	State Justice Institute. For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, of which $9,000,000 shall remain available until expended.	.....	$9,834,000	$9,8[illegible],000

INDEPENDENT AGENCIES

STATE JUSTICE INSTITUTE

This request is the second budget submission for the State Justice Institute, authorized by Title II of Public Law 98-620, signed by the President on November 9, 1984. Congress established the State Justice Institute as a private non-profit corporation to further improvement in the administration and operation of the courts of the States and thus assure each person ready access to a fair and effective system of justice.

The Institute is to be governed by an 11-member board of directors and will operate with a small administrative staff, with its objectives being met through grants to State courts, their support organizations, law schools, and other organizations working in the field of judicial administration. The Institute has broad authority to fund research, technical assistance, demonstration, clearinghouse, education, training, and related activities to improve the administration of justice.

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised
300-101

INDEPENDENT AGENCIES

STATE JUSTICE INSTITUTE

Program and Financing (in thousands of dollars)

Identification code 48-0052-0-1-752	1987	1987	1987
	Request Pending	Proposed Amendment	Revised Request
Program by activities:			
00.01 General administration..........	$.....	$ 834,000	$ 834,000
00.02 Grants.........................	.....	9,000,000	9,000,000
10.00 Total obligations.............	.....	9,834,000	9,834,000
Financing:			
40.00 Budget authority................	.....	9,834,000	9,834,000
Relation of obligations to outlays:			
71.00 Obligations incurred, net.......	.....	9,834,000	9,834,000
72.40 Obligated balance, start of year........................	.....	.....	.....
74.40 Obligated balance, end of year..	.....	.....	.....
90.00 Outlays.........................	.....	9,834,000	9,834,000

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Type size
[illegible]

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised
300-101

INDEPENDENT AGENCIES

STATE JUSTICE INSTITUTE

Object Classification (in thousands of dollars)

Identification code 48-0052-0-1-752	1987	1987	1987
	Request Pending	Proposed Amendment	Revised Request
11.1 Personnel compensation: Full-time permanent............	.....	489	489
12.1 Personnel benefits: Civilian......................	.....	86	86
21.0 Travel and transportation of persons......................	.....	61	61
22.0 Transportation of things.........	.....	1	1
23.1 Standard level user charges......	.....	52	52
23.3 Communications, utilities, and miscellaneous charges..........	.....	11	11
24.0 Printing and reproduction........	.....	6	6
25.0 Other services..................	.....	61	61
26.0 Supplies and materials...........	.....	11	11
31.0 Equipment........................	.....	56	56
41.0 Grants, subsidies, and contributions..........................	.....	9,000	9,000
99.9 Total obligations................	.....	9,834	9,834

Personnel Summary

Total number of full-time permanent positions............................	.....	14	14
Total compensable workyears: Full-time equivalent employment......	.....	14	14

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INDEPENDENT AGENCIES

STATE JUSTICE INSTITUTE

SUPPLEMENTARY SOURCE DOCUMENT (In thousands of dollars)

Identification code 48-0052-0-1-752	Function	Line No.	Def. (D) / Indef. (I)	Leg. (B) / Nonleg. (N)	19 85 actual	19 86 estimate	19 87 estimate
A. ANALYSIS OF BUDGET AUTHORITY AND OUTLAYS							
Budget authority	752	40.00	D	N	.....	8,000	9,834
Total					.....	8,000	9,834
Outlays	752	90.00			.....	8,000	9,834
Total					.....	8,000	9,834
Memorandum entries: Appropriation to liquidate contract authority							
Limitations:		9					
		9					
		9					
		9					

STANDARD FORM 307
June 1974 (Revised), Office of
Management and Budget
Circular No. A-11 Revised

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INDEPENDENT AGENCIES
STATE JUSTICE INSTITUTE

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $9,834,000.

Request pending	$ .....
Program amendment	9,834,000
Revised estimate	$9,834,000

Program and Financing

	1987 Request Pending	1987 Proposed Amendment	1987 Revised Request
Program by activities:			
General administration	.....	$ 834,000	$ 834,000
Grants	.....	9,000,000	9,000,000
Total obligations	.....	9,834,000	9,834,000
Financing:			
Budget authority	.....	9,834,000	9,834,000
Relation of obligations to outlays:			
Obligations incurred, net	.....	9,834,000	9,834,000
Obligated balance, start of year	.....	.....	.....
Obligated balance, end of year	.....	.....	.....
Outlays	.....	9,834,000	9,834,000

Analysis by Object Class

		1987 Request Pending	1987 Proposed Amendment	1987 Revised Request
11	Personnel compensation	$ ...	$ 489,000	$ 489,000
12	Personnel benefits	...	86,000	86,000
21	Travel and transportation of persons	...	61,000	61,000
22	Transportation of things	...	1,000	1,000
23	Standard level user charges	...	52,000	52,000
	Communications, utilities and miscellaneous charges	...	11,000	11,000
24	Printing and reproduction	...	6,000	6,000
25	Other services	...	61,000	61,000
26	Supplies and materials	...	11,000	11,000
31	Equipment	...	56,000	56,000
41	Grants	...	9,000,000	9,000,000
	Total obligations	$ ...	$9,834,000	$9,834,000

Personnel Summary

	1987 Request Pending	1987 Proposed Amendment	1987 Revised Request
Total number of full-time permanent positions	...	14	+14
Total compensable workyears:			
Full-time equivalent employment	...	14	+14

Justification

Introduction

This is the second budget submission for the State Justice Institute, authorized by Title II of Public Law 98-260, the State Justice Institute Act, signed by President Reagan on November 9, 1984. The authorized funding levels included in the Act are $13,000,000 for fiscal year 1986, $15,000,000 for fiscal year 1987, and $15,000,000 for fiscal year 1988.

In keeping with the budgetary restraints imposed on all Federal agencies, the initial 1986 request was for $8,883,000, $4,117,000 below the authorized level. The sum of $8,000,000 was appropriated by the Congress. This will provide for the organization of the Institute and permit a substantial start on its program after the board of directors has been appointed, and has established the initial program objectives and priorities as required by the Act.

Since the board of directors has not yet been appointed, it is again necessary that a budget be submitted before the Institute is in existence. This submission is made by the Conference of Chief Justices whose members are the highest judicial officers of the States and territories. Under the Act the Conference of Chief Justices is the nominating authority for a majority of the members of the Institute's board of directors. In addition, the Act provides that the Institute's annual budget request shall be submitted directly to Congress with the role of the Office of Management and Budget limited to that of review and comment.

History and Structure

Congress established the State Justice Institute as a private non-profit corporation to further improvement in the administration and operation of the courts of the States and thus assure each person ready access to a fair and effective system of justice. The non-profit structure was chosen to assure the Institute's independence in keeping with the separation of powers doctrine. It is to be governed by an 11-member board of directors, six of whom must be State judges and one a State court administrator appointed by the President from a panel of nominees submitted to him by the Conference of Chief Justices following consultation with other interested organizations. Four public members will be appointed directly by the President. The board will have complete control over operations of the Institute including the selection and tenure of the executive director, and sign-off authority on all grants, contracts, and cooperative agreements.

The Act anticipates that the Institute will operate with a small administrative staff and that its objectives will be met through grants to the courts and their support organizations, as well as law schools and other organizations working in the field of judicial administration. In short, the Institute will not conduct research or perform other substantive functions with in-house staff.

The Institute has broad authority to fund research, technical assistance, demonstration, clearinghouse, education, training and related activities to improve the administration of justice. Funding is specifically authorized for 15 categories of programs which recognize the relationship between the diverse civil and criminal caseloads of the courts and the need to improve the judicial system as an integrated whole. The Act also recognizes the close relationship between the State and Federal judicial systems and anticipates cooperative programs to improve the effectiveness of each. The specifically authorized categories of programs are as follows:

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties

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and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve the functioning of such judges and courts;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and to test the utility of those alternative approaches;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

The Act specifically provides that the Institute shall not be considered a department, agency, or instrumentality of the Federal Government and that its officers and employees, except for certain employee benefits, shall not be considered officers or employees of the United States. The Institute is covered by the Freedom of Information Act and must meet generally accepted Federal standards for the auditing of its own accounts as well as the monitoring and evaluation of programs supported by it. In addition to annual audits by an independent certified public accountant, the financial transactions of the Institute may be audited by the General Accounting Office with reports and recommendations going from the Comptroller General of the United States to Congress and the Attorney General. The Attorney General, in consultation with the Federal Judicial Center, also will report to Congress on the work and effectiveness of the Institute.

State courts receiving funds from the Institute must provide a 50 percent match but awards to non-profit organizations may be up to 100 percent. The Act specifically forbids use of Institute funds to supplant existing State or local funding of court programs or services and there are strong prohibitions on any type of lobbying activity by the Institute or its grantees at the national, State, or local levels of government.

Request

A detail of the request for fiscal year 1987 is shown below.

STATE JUSTICE INSTITUTE
Fiscal Year 1987 Operating Budget

Personnel:		
Director's Office		
Director	$68,700	
Administrative Assistant	26,000	
Secretary	24,000	
Subtotal		$ 118,700
Programs Division		
Director of Research and Education	50,000	
Program Monitor	35,000	
Program Monitor	35,000	
Secretary	20,000	
Director of State Programs	50,000	
Program Monitor	35,000	
Secretary	20,000	
Subtotal		245,000
Administration and Finance		
Director	$50,000	
Accountant	35,000	
Accounting technician	20,000	
Secretary	20,000	
Subtotal		125,000
Total Personnel		$ 488,700
Personnel Benefits @ 17%		82,900
Recruiting and Relocation		5,000
Staff Travel		
Director's Office: 12 @ $600	$ 7,200	
Education and Research: 9 @ $600	5,400	
State Programs: 9 @ $600	5,400	
Administration and Finance: 4 @ $600	2,400	
Subtotal		20,400
Board of Directors (4 meetings @ $10,000)		40,000
Audit Fees		25,000
Legal Fees		10,000
Evaluation		20,000
Office Space Rental (2,100 sq. ft. @ $25)		52,500
Furniture and Fixtures (3 @ $2,500)		7,500
Computer System/Word Processing		12,000
General and Administrative (14 @ $5,000)		70,000
Total, Administration		$ 834,000
Total, Programs/Grants		9,000,000
GRAND TOTAL		$9,834,000

Mr. SMITH. We are glad to have you with us this morning, Chief Justice Hennessey. You may proceed.

[The prepared statement of the Conference of Chief Justices follows:]

STATEMENT OF THE CONFERENCE OF CHIEF JUSTICES

BEFORE THE

SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE JUDICIARY

AND RELATED AGENCIES

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1986

ON

THE STATE JUSTICE INSTITUTE

Mr. Chairman and Members of Subcommittee:

The Conference of Chief Justices again appreciates the opportunity to submit, and speak in support of, an appropriation request for the State Justice Institute. We already are deeply in your debt for the courtesy extended to us last year and for your generous response to our request.

I am Edward F. Hennessey, Chief Justice of the Supreme Judicial Court of Massachusetts, and appear today in my capacity as President of the Conference of Chief Justices, the national organization of the highest judicial officers of the states.

The Fiscal 1987 request, Mr. Chairman, will cover the first full year of operation of the Institute as authorized by Title II of Public Law 98-620, the State Justice Institute Act. It is for $9,834,000 and does not, in our view, represent a significant increase over Fiscal 1986. This is because the $8,883,000 requested for Fiscal 1986, and the $8,000,000 actually appropriated, was projected for an operating year of only eight to 10 months. In addition, Congress anticipated that the Institute's budget would increase in Fiscal 1987 by increasing the funding authority in the authorization act from $13,000,000 to $15,000 000. Thus, the request for Fiscal 1986 was $4,117,000 below the authorized level while the comparable figure for Fiscal 1987 is $5,166,000 below.

Administrative expenses, at $834,000, are 8.49 percent of the total requested and will provide for 14 full-time permanent positions. This compares to administrative expenses of $715,000, or 8.94 percent, authorized by Congress for the shorter period of Fiscal 1986. In reassessing personnel requirements we reduced the number of positions from 15 to 14 while adding three program monitors to track the Institute's grant program which should be well underway in the second year. We achieved the reduction by eliminating the office of deputy director and by consolidating the research and education functions into one position. Other changes reflect transition from the start-up expenses of Fiscal 1986 to normal operations with most furniture, fixtures, and other equipment in place. The principal change we are requesting would be in the grant program which, at $9,000,000, would be $1-million above the level requested for Fiscal 1986 but increase $1,715,000 over the actual appropriation.

Other than noting these changes in the Institute budget request, Mr. Chairman, our statement necessarily must be similar to that presented in our initial request to you last year by Chief Justice W. Ward Reynoldson of the Supreme Court of Iowa, my predecessor as President of the Conference of Chief Justices. He explained why the Conference, as the principal sponsor the the State Justice Institute Act, found it necessary to make the initial appropriation request so that the Institute could be brought into existence. At that time we confidently expected that the Institute's board of directors would be appointed and in position to make this submission for Fiscal 1987. Unfortunately, that is not the case and we again find ourselves on center stage in a role for which we have little experience and for which we have had little time to prepare.

If we have been able to perform at all it is because of the very kind and professional assistance given us this year as well as last by Mr. Dewey Heisig and his staff, particularly budget analyst Evan Tausch, in the Financial Management Division of the Administrative Office of the United States Courts. We take full responsibility for the substance of the requests, but these skilled budget specialists have taken our raw data and put it in the proper form. We simply could not have acted without them and they have our sincerest thanks.

While testimony on the history of the SJI and background on its mission is as relevant to this request as to that for 1986, we will not repeat that testimony but will rely on information in the budget justification presented to you earlier. We hope this can be made part of the hearing record. There are, however, two recent developments of great importance to our current request and our discussion of these will constitute most of what we have to offer in the way of new testimony. I am referring, of course, to the administration's proposed rescission of the Institute's appropriation for Fiscal 1986 and the recommendation for zero funding in Fiscal

1987. These issues also are related to the fact that the President has not, thus far, nominated the Institute's board of directors.

Under the State Justice Institute Act all operations of the Institute are to be under control of an 11-member board of directors appointed by the President with the advise and consent of the Senate. Obviously, the Institute cannot begin operations until the board is appointed and confirmed. The State Justice Institute Act requires the President to make these appointments within 90 days of its effective date of October 1, 1985. That means the board should have been appointed by January 1 of this year.

The Act also makes the Conference of Chief Justices the nominating authority for seven of the board's members, six of whom must be state judges and one a state court administrator. There also are four public members appointed directly by the President.

The Act passed Congress in October of 1984 and was signed by the President on the following November 9 but, as noted, with an effective date of October 1, 1985. Immediately on passage of the Act the Conference of Chief Justices set to work to perform its nominating function. At its Midwinter Meeting in February 1985 the Conference directed its board of directors to prepare a list of nominees for consideration of the Conference at its annual meeting the following August. We then wrote to the presidents or chairmen of more than 40 national court and bar orgnizations with an interest in the administration of justice, soliciting their recommendations on candidates for the board positions. We also published a general notice in national law publications soliciting recommendations on persons to be included on the list of nominees.

Our board also devised and approved a set of criteria to guide it in the nominating process. These included requirements that the panel of nominees include persons who would be representative of small and large states, metropolitan and rural areas, and women and minorities. It also was decided that nominees should not only be respected leaders of the judiciary in their own states but have been active nationally in the field of judicial administration and be nationally known and respected; that the list should be representative of the state courts at all levels; and that there be no more than one nominees from any state. The process was, of course, to be non-partisan in every respect.

Our solicitations resulted in a large number of potential nominees whom we measured against the established criteria and reduced to a list of 17. The final panel consisted of five chief justices, four intermediate appellate judges, four judges from trial courts of general jurisdiction, two judges from trial courts of limited or special jurisdiction, and two state court administrators. The nominees came from 17 states in all regions of the country. They included three women, two minorities, and representative of every major court and bar organizations that submitted nominees. The panel was approved by the Conference and forwarded to the President, along with background information on each nominee, on September 17, 1985.

Initially we had every reason to be encouraged and gratified by the manner in which the White House was processing the nominations. There can be no question but that the process was expedited and that a full panel of 11 nominees was cleared for field investigations by the Federal Bureau of Investigation. Our information also indicates that these investigations are largely complete and that a panel of at least 10 nominees is now cleared, or largely cleared, for submission to the Senate. Unfortunately, one nominee-designate found it necessary to withdraw on determining that service on the SJI board could be construed as violating an obscure provision of his state constitution. But there is no reason we know of why the Institute could not be operated by a 10-member board pending the final appointment. We have not, however, received any word from the White House as to if or when the names will be sent to the Senate.

That brings us to the second of the new developments that relate to our current request. We did not know until the President's budget was sent to Congress on February 5 that he would propose a rescission of the 1986 funds and termination of the Institute. The Institute is not alone in this regard and we can only conclude that the Office of Management and Budget, because it misunderstands the nature and purposes of the Institute, has linked it with the large state and local criminal justice grant programs that it also has proposed for rescission and termination in keeping with administration policy which, as we understand it, calls for reduced federal assistance to state and local governments.

Properly undertood, the State Justice Institute would more appropriately be identified with such agencies as the National Institute of Corrections and the National Institute of Justice, small agencies which serve well defined national purposes and for which the administration has proposed continued funding.

In his testimony last year Chief Justice Reynoldson termed the State Justice Institute a "unique national agency to serve a unique national need." This is because it was designed to fill a critical institutional gap in our federal system by providing an appropriately structured national mechanism for improvement of the nation's judicial systems. There is no other institution, state or federal, public or private, capable of addressing the complex mix of relationships between the federal government and state judicial systems in a manner consistent with the principles of federalism and the separation of powers doctrine. It also is based on the ever more obvious premise that state and federal courts are components of an increasingly uniform national system of justice whose problems are closely related.

That has been our view since the Institute first was proposed in 1979 by a Joint Task Force of the Conference of Chief Justices and the Conference of State Court Administrators. It is the view of others who have supported creation of the Institute including the Chief Justice of the United States and such major organizations of the bench and bar as the Judicial Conference of the United States and the American Bar Association.

They agree that there is a pressing national need for an institution that can appropriately address the operations of state courts as these affect the federal courts and other areas of national concern. We find it anomalous that Congress, without a means of involving the state courts, repeatedly has addressed, and failed to resolve, complex problems presented as failures or shortcomings of state court systems, particularly those problems associated with the tort liability system.

There have, for instance, been unsuccessful efforts to impose a federal no-fault auto reparations system on the states. There are pending proposals that would federalize, in one form or another, the manner in which state courts administer the law of torts in the fields of product liability and medical malpractice. There also have been repeated attempts to abolish or modify federal diversity of citizenship jurisdiction under which state law cases are tried in the federal courts. In recent years such cases have comprised some 25 percent of federal civil filings and have constituted an even larger percentage of their weighted caseloads.

Most scholars and judges who concern themselves with questions of state-federal jurisdiction agree that diversity jurisdiction, whatever the original need it served, now is dysfunctional to both systems and should be abolished. But there are good reasons, both political and practical, why this seemingly desirable reform has not been possible.

Important aspects of all these issues could be addressed effectively, we believe, by the State Justice Institute, as could many other critical problems associated with the tort liability system. There also is reason to believe the Institute could address major problems of the criminal justice system including those associated with collateral federal review of state criminal convictions. Abuse of such review not only makes it difficult to terminate a state criminal proceeding, thus leading to public cynicism as to the effectiveness of the courts, but places another heavy burden on the federal judiciary. There is, in short, no end to the important national objectives that the Institute could address.

We also find it anomalous that the Administration, which has pressed for abolition of federal diversity jurisdiction, limitations on federal review of state convictions, and reform of the product liability system, has proposed termination of the one national agency specifically designed to deal with such issues. We can only conclude, given the President's apparent intent to nominate the Institute's board of directors, that the decision was hastily made in an atmosphere of some confusion caused by the need for speedy action under the Gramm-Rudman-Hollings deficit reduction legislation.

We do know the decision was made without consulting or informing the Conference of Chief Justices, the Congressional sponsors of the authorizing legislation, or the committees responsible for Congressional oversight of the Institute. And we are confident that the decision, on more deliberate consideration, can be reversed. We certainly are unwilling to see a ten-year effort hastily aborted at the very instant of its final success. And we are confident that other supporters of the Institute, in the Congress, in the administration, and in the legal-judicial community nationally, share our views.

There can be no question, Mr. Chairman, but that the role of state courts, however necessary to the success of our federal system, has been all but forgotten by the federal government as it has addressed, increasingly in recent years, important issues of civil and criminal justice that are integral to the operations of these same state courts. If they are thought of at all, state courts are more likely to be viewed as a cause of the problem at hand, rather than an important part of the solution, as we think they often should be.

State courts are, after all, responsible for the resolution of the overwhelming majority — some studies put the figure as high as 98 percent — of the civil disputes and criminal charges that must be handled in a fair and efficient manner if our diverse and dynamic society is to continue on its remarkably successful path. The administration of justice, we can readily agree, is a basic responsibility of government. I also trust we can agree that it not one that can be lightly dispensed with, even in periods of the most severe budgetary restraint.

This is not to suggest that the courts would cease to function if there were no State Justice Institute. That obviously is not the case. But the Institute has been carefully designed to perform functions necessary to the future success of both the federal and state systems, functions that have fallen between the cracks in a federal government that has found the time and resources to address countless problems far less central to the essential roles of government than the administration of justice.

In this regard we note that the federal government has long provided to state and local criminal justice agencies of the executive branch the kinds of service the State Justice Institute would tailor to the needs of the courts. For instance, the President's budget for Fiscal 1987 requests $9,495,000 for the National Institute of Corrections, an agency in the Bureau of Prisons of the Department of Justice that funds research, clearinghouse, demonstration projects and other activities to improve the operations of state and local jails. Among existing federal agencies the program of the NIC most closely resembles that anticipated for the State Justice Institute. We think the NIC makes sense. It brings tested and proven national programs and expert assistance to thousands of small jails, that could not otherwise afford them, in the most cost effective manner. In our view this is the kind of program that our system of federalism wisely makes the responsibility of the federal government, i.e., it is a program beyond the capability of individual states but that serves all states and thus the nation.

It does no disservice to the the NIC to suggest that the State Justice Institute will serve an equal if not greater national interest. State courts systems, while separate and independent, have always been, and remain, the major partner in an essentially unitary judicial system. State courts, of course, existed before the federal courts and the federal constitution, in explicitly providing for only the United States Supreme Court, anticipated that state courts would be the courts of original jurisdiction for federal as well as state law questions. State courts, in fact, did hear federal question cases for the first 100 years of our national life. It was not until the Judiciary Act of 1875 that these cases began their move to the federal courts but without fully leaving the state courts which have, under most federal statutes, concurrent jurisdiction.

It also is important to emphasize the fact that state judges, under the supremacy clause of the United States Constitution, are sworn, as are their colleagues on the federal bench, to uphold the laws and constitution of the United States and to give precedence to federal law where it might conflict with the law of the states. Together with the vast expansion of federal law affecting state action this has made state courts, more so that the federal courts in some areas, the principal enforcer of important federal policies.

It follows from this, we believe, that state court systems have a unique relationship with the federal government. While all functions of state and local government are part of the federal system, the judicial function is the most highly integrated because it is inherently hierarchical with the United States Supreme Court at the apex of the system and with federal district courts exercising collateral review of state criminal convictions by writ of habeas corpus or granting injunctive relief for alleged violations of federal civil rights.

There is, for instance, a basic difference in the relationship between the Massachusetts state police and the Federal Bureau of Investigation and the relationship between the Supreme Judicial Court of Massachusetts and the Supreme Court of the United States. There is no one in the FBI with either the power or the responsibility to oversee the routine work of our state and local police unless, of course, they are in violation of a federal criminal law. Nor do our state and local police have primary responsibility for enforcement of federal law.

The actions and decisions of state judges, on the other hand, are routinely subject to review and reversal by federal courts because state judges are required, under the supremacy clause of the federal constitution, to enforce as a matter of first priority the constitution and laws of the United States. The same analysis also would apply, for instance, to the director of a state prison system and the director of the Federal Bureau of Prisons. The federal official has no direct authority over his counterpart in the state. It also should be noted that there is no separation of powers problem when a federal executive official works with an official of the executive branch of state government. There is principally the question of federalism, i.e., of the powers reserved to the states under the 10th amendment. The situation is the opposite for state judges who must respect the separation of powers doctrine in their dealings with state and federal executive officials, but who do not have the same degree of 10th amendment immunity as state executive officials because of the supremacy clause.

State executive officials are not, of course, free to violate federal law and are subject to the authority of federal executive officials when administering federally funded programs under provisions of federal laws and regulations. They also are subject to the federal courts in civil actions raising federal questions, particularly under 42 U.S.C. 1983. But such actions, while all too common in the view of state and local officials, are extraordinary and not so firmly structured into the federal system as in the case of state judiciaries.

These points are among those spelled out in detail in the report of our Tasks Force on a State Court Improvement Act and were discussed at length in statements and testimony before the House and Senate Judiciary Committees as they considered the State Justice Institute Act. For instance, a paper by Prof. Daniel J. Meador, former Assistant U.S. Attorney General in charge of the Office for Improvements in the Administration of Justice, assessed relations between state and federal courts, and found that federal judicial power has been expanding relative to that of the states. But at the same time, he said, the "state and federal court systems are growing closer together. There are now more points of contact. There is also growing uniformity in the law being applied by both and in the rules of procedure being used."

This point has been amplified by Chief Justice Reynoldson who found, "There is hard evidence that shows how intertwined state and federal law has become. Among the 281 published opinions of the Iowa Supreme Court in 1981," he said, "72 criminal cases cited a total of 327 federal decisions. Fifty-three federal cases were cited in eight post-conviction opinions. Fifty-seven civil cases cited a total of 188 federal cases. Twenty of our opinions cited the United States Code; 27 cited the Federal Rules of Civil and Criminal Procedure or the Federal Rules of Evidence."

"I am convinced," Chief Justice Reynoldson added, "that Iowa appellate judges spend almost as much time in the Federal Reporters as in State Reporters."

These remarks are from a speech made by Chief Justice Reynoldson in 1982 at the Fifth Brookings Institution Seminar on the Administration of Justice at Colonial Williamsburg, Va. Because this speech also discusses other problems of state-federal judicial relations that will be of concern to the State Justice Institute, we would appreciate it if it could be made part of the hearing record.

I will conclude by noting that the State Justice Institute, far from being an unnecessary burden on the federal government as recent administration actions might suggest, could well be one of the most cost-effective federal programs ever devised. For instance, a study by the Administrative Office of the United States Courts, conducted about 1979-80, found that elimination of federal diversity jurisdiction alone would save the federal treasury $180.6-million over the folowing five years through reduced costs for new judges, court facilities, clerks, etc. Such savings over the long-term would far exceed any projected costs for the State Justice Institute. They also would pave the way for other changes necessary to a more rational allocation of jurisdiction between state and federal courts, and therefore to additional reductions in federal costs as well as an improved quality of justice via both systems for the citizens they serve. Viewed in this light the State Justice Institute will be seen as strengthening the federal system by preserving and expanding the role of state courts in that system and by reducing the need for federal judicial review of state and local decision making.

We understand, of course, that a small program for the improvement of the administration of justice is not high on anyone's political agenda because there obviously is not a mass constituency that understands its significance or cares greatly about it. But we in the judiciary are used to that problem and still believe that those of us with responsibility for the administration of justice have an obligation to work for improvement of the justice system and that such improvement is one of the most important functions and responsibilities of government. If we have to wait for public outcries, and demands for change, we have failed in our responsibilities.

The quest for a State Justice Institute has been a long and difficult effort for the Conference of Chief Justices because it is not easy to explain or to understand the uniqueness of the relationship between state judiciaries and the federal government. It also is very difficult, as we are learning to our regret, to establish an independent federal agency, especially one without antecedents such as the Legal Services Corporation had in the former Office of Economic Opportunity, or that does not have a basis of support in existing departments or agencies. This problem is not lessened when the administration is less than enthusiastic about the program.

As noted in the beginning, Mr. Chairman, this statement is made in my capacity as President of the Conference of Chief Justices and involves the most important effort we have sponsored over the past decade. Members of the Conference come not only from the 50 states but from the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. Accordingly, we represent what surely is the largest and most complex judicial system known to man, stretching from the South Atlantic northward across the continent to Alaska and westward to Hawaii and the islands of the far Western Pacific. When we consider the close relationship between state and federal courts we are, indeed, speaking of a very large and complex system that can and should be a model for the world.

We glory in our diversity but also know that we are bound together by the laws and customs we have in common, and by our common problems and common goals. We think the State Justice Institute, by helping to improve the quality of justice in the states, necessarily will assist the federal courts and thus improve the quality of justice available to all.

We thank you again for your generous response to our initial request and respectfullly request your continuing support. With it we will prevail.

STATEMENT OF EDWARD F. HENNESSEY, CHIEF JUSTICE OF THE SUPREME JUDICIAL COURT OF MASSACHUSETTS AND PRESIDENT, CONFERENCE OF CHIEF JUSTICES

Mr. **HENNESSEY.** Thank you, Mr. Chairman. As you have stated, I am Chief Justice Edward F. Hennessey, Supreme Judicial Court of Massachusetts, and I appear today, however, in my capacity as president of the National Conference of Chief Justices which is the national organization of the highest judicial officers of the States and territories of the country, and every State and every territory is a member of that conference through its chief justice.

Before I proceed further, Mr. Chairman, I should like to point out on page 2 a reasonably significant error in mathematics which has been pointed out to staff this morning for purposes of correcting the written record. In the last sentence of the only complete paragraph on page 2 it should read, "The principal change we are requesting would be in the grant program which, at $9 million" would be $1 million over the level requested for fiscal '86 but an increase of $1,715,000 over the actual appropriation for '86.

BOARD OF DIRECTORS

So with that correction, Mr. Chairman, may I also say that it is with mixed emotions that I appear here today because, as president of the National Conference of Chief Justices, it was my hope that the board of directors—or the chairman of the board of directors of the State Justice Institute—would be appearing before you at this time. However, for reasons which are perhaps consistent with the President's position on this fiscal item of '87 and, indeed, of '86, he has not yet appointed the board of directors. We hope he will soon. But in any event, it is appropriate that, as president of the National Conference of Chief Justices, I should be here and represent their unanimous concern because this is the organization which, for nearly 10 years, has moved in every reasonable way it could toward the accomplishment of the establishment of this State Justice Institute. And so of necessity—but also with pleasure—I appear and once more espouse the cause of the State Justice Institute.

Last year my predecessor in office, Chief Justice Ward Reynoldson of Iowa, made what I think was an eloquent and very full explanation of the great value that the State Justice Institute will have to this country, to the States, to the Federal Government, and to the concept of federalism and the cooperation between State and Federal courts in our country.

UNEXPLORED AREAS

I should say, Mr. Chairman, that the great unexplored area of judicial proceedings, judicial administration, administration of the courts in this country today is that area in which, in many, many ways, the laws of the country—the laws of the United States, the Federal law—impacts and melds with the State law. And that is the area in which we have had, over the years, great concern. Federal judges and State judges are, alike, deeply concerned about the fact that matters fall between the cracks. There is no appropriate organization to study and recommend—even on an experimental basis—the appropriate procedures, the appropriate remedies for the many wasteful things that necessarily occur because of the interlocking of Federal and State law. As I say, it is a matter which—for lack of a better term, I say for all time—has fallen through the cracks.

HABEAS CORPUS

The State Justice Institute would remedy that. Let me give a few examples of that. First, habeas corpus. As you know, Mr. Chairman, a criminal case can go to final judgment, as far as the State is concerned. The State Supreme Court can rule and make final decision of a criminal case. And yet I, for one—as do almost all State judges—applaud the fact that there is habeas corpus remedy available in the Federal courts for collateral review of what the State courts have done, even up to the final decision of the highest court in the State.

In short, Mr. Chairman, we have collateral review which, in its first instance, is by one Federal judge, and it is a review of what the highest court of the State has done, however final and however fair that may seem.

One Federal judge in my acquaintance has stated, in terms of what he saw as the wastefulness—not of those cases which deserve and must have collateral review because of mistake, error, constitutional error in particular, in the State court, and therefore Federal review is necessary in the interests of justice—but this Federal judge not long ago said to me, in terms of those many, many thousands, tens of thousands, of habeas corpus petitions which are filed in the Federal courts and which have an impact, a great impact, on the Federal courts, also have a great impact on the State courts because of the number—relatively small number—that are referred back for further proceedings in the State court.

He said to me that it has become axiomatic in this country that every defendant is entitled to two fair trials. That's a point of view; that's his point of view. I don't quite share his point of view, but I do point it out as indicative—indicative—of the fact that there is no organization which bridges the gap vis-a-vis habeas corpus and its tremendous drain, particularly on the Federal structure. No organization which bridges the gap and can make a study of this problem, which has been of deep concern to the Federal Judicial Conference and to the National Conference of Chief Justices.

No particular legal problem, constitutional problem, statutory problem affecting the courts has been the subject of more proposed resolutions before the National Conference of Chief Justices than the problem of trying to work out some sort of fair, just, and—at the same time—economical relationship between Federal and State law, between Federal and State courts in this vast area of habeas corpus.

TORT LIABILITY LAW

Let me mention another area wherein Federal and State law mesh and where there is no appropriate organization to look at it, to make recommendations to the Congress, to make recommendations to the State legislatures in terms of the relationship between State and Federal law and State and Federal courts. And I speak to the question which is uppermost in the minds of many advocates in the Congress, as to whether there should be Federal law concerning medical malpractice—a vast subject—and whether there should be Federal law as to the area of manufacturer's liability, another vast subject. This is unexplored territory. The complexities of having a Federal statute which reaches into the 50 States and affects what has always been a matter of State statute and State common law—the complexities of those vast areas—and keeping in mind the concern of the Congress, the concern of the State legislatures as to the professional emergencies; and, indeed, the cost conscious emergencies that many people are bringing to the attention of their Congressmen and their State legislatures—keeping those things in mind, it occurs to me that with these enormously important areas under consideration, there is no "think tank," there is no organization in the country—certainly, the Federal courts can't do it, it's not their exclusive business; State courts can't do it, it's not their exclusive business—I know of no organization that can study these matters and can come before the Congress and then go before the State legislatures and can speak as a neutral expert group. The people that are speaking to the Congress and to State legislatures in these very difficult—and, indeed, these emergency—areas of tort liability, medical malpractice, and manufacturer's liability—are proponents or opponents. The come with a preconceived point of view. That is something that a State Justice Institute would cover because, again, it would reach the places where the State and Federal law impact, where they cross, where no studies, no expertise has ever been brought to bear.

DIVERSITY JURISDICTION

Another area—diversity of citizenship. This is a subject that has been discussed in the Congress on many occasions and for some years now. It has had the recommendation of some kind—or various kinds—from the Chief Justice and from the Federal Judicial Conference at various times. This is a matter of—as you know, Mr. Chairman, thousands of State cases are in the Federal courts. The reason they are there, although they involve solely State law—the reason they are there is simply that by statute, Congress established that when the opponents live in different States, and if the suit in question reaches a certain level—at the present time it's $10,000—then the parties, at their option, may come into the Federal court rather than the State, even though only State law is involved. The Chief Justice at some time or other has indicated that that should be eliminated, or at least modified. The Federal Judicial Conference has gone on record on that.

I have seen figures which stated that if diversity of citizenship were eliminated as a ground for Federal jurisdiction in civil cases, and those cases were sent to the State courts whose law is the law that's involved, there would be a saving to the Federal Government of $183 million over the next 5 years in terms of the costs to the Federal courts.

I don't know whether it's a good thing or a bad thing to take those cases out of the Federal court. Perhaps there is a good reason. Perhaps there are excellent reasons, and I've heard some of them propounded—why diversity as a ground of jurisdiction in the Federal courts should continue. Perhaps there is, but there is no neutral group that presently speaks to it.

There are other areas which the Congress has studied and proposes to study in the future, I'm sure—no-fault insurance on a Federal level. There is no "think tank," in other words, as to all of these areas which can bring its expertise to the courts and particularly to the Congress and to the State legislatures in these areas where Federal and State law, Federal and State problems intermesh.

In conclusion, Mr. Chairman, I would say this. I would not make the mistake of saying to you, Mr. Chairman, with all the care that your subcommittee is showing for expenditure of these funds—I would not make the mistake of saying that this is a small sum of money that's involved here. It's not; $9+ million is a large sum of money. But the problems which I have mentioned which cry out for solution and which cry out for amelioration involve hundreds and hundreds of millions of dollars in terms of the total cost to the justice system in this country.

The chief justices of the States and the territories unanimously urge the favorable consideration of this subcommittee on this request for funding for fiscal '87; and at various times, the Federal Judicial Conference has also urged the favorable consideration of the Congress on this particular institution, as has Chief Justice Burger.

FEDERAL CASE LOADS

With that, Mr. Chairman, unless there are questions, I want to thank you again for the opportunity to appear before you.

Mr. Smith. Thank you very much for your statement. What you said is certainly true with regard to the Federal Judicial Conference and others looking for ways to reduce the pressures on Federal courts. I know this, that from my point of view, having observed this for many years, there's no way that we can continue to have the quality of justice that people deserve in Federal courts by simply appointing more judges and building more courtrooms. We've got to do something about the volume of business that goes into the Federal courts.

I think a lot of people in the Congress—and apparently, the administration, from the looks of what they tried to do with this budget—don't realize that this isn't just something that somebody down in the Justice Department can sit down and write a law that solves this problem. There has to be a lot of thought go into it. And that's the reason this subcommittee has supported the appropriation that you're here to defend this morning and to propose.

I don't know where we're going to get these answers unless we have people involved like yourself and Judge Reynoldson and the Chief Justices of the State Supreme Courts. I haven't seen anyone else coming forward and really making what I felt was the kind of effort that might reach a result.

I want to compliment you on what you've done the last two or three or four years in this area. Diversity of citizenship, of course, is the one that's mentioned most often as a way where we could relieve some of the pressure. I practiced law 30 years ago, and I know what I did. I shopped around a little bit for a Federal court that would be a little more favorable than the ones we had in Iowa. The juries there weren't very lenient. They weren't very amenable to a decent-sized verdict, in my judgment, in those days, so I went to Minnesota whenever I had a railroad case that involved a railroad where I could get into Minnesota. And there are ways of doing it.

And so, we've got to do something about it. And so it concerns me, though, how fast we can do it and whether we can do it fast enough. We're appointing a lot of Federal judges. They can't appoint them as fast as we're creating new judgeships. And it's not the answer; we've got to do something different than that.

And so that's one of the principal reasons that we have provided the appropriation for the request that you had. We're expecting to get some results out of it.

How much have you spent so far in fiscal 1986?

Mr. **Hennessey**. We have spent nothing, Mr. Chairman, because no one has authority to spend it until the President appoints a board of directors, although the Conference of Chief Justices, through its secretariat at the National Center for State Courts, has agreed that until the board of directors is in place—assuming that the President appoints them—the National Center for State Courts, under the urging of the Conference of Chief Justices, will, without obligation to the taxpayers, provide the start-up. It will provide the initial expenses.

BOARD APPOINTMENTS AND SEQUESTRATION

Mr. **Smith**. Do you have any word as to when those appointments will be made?

Mr. **Hennessey**. I have none, Mr. Chairman. All that I can say is that the President's position, just from inference—his position on the appointments is consistent with his position on the fiscal aspects. And I would hope that——

Mr. **Smith**. The sequestration of $344,000, assuming a rescission is not approved: What effect will that have on your budget?

Mr. **Hennessey**. Well, it will have—assuming that the rescission is not approved, it will be a diminution of $344,000. But I would point out, Mr. Chairman, that the subcommittee and the Congress approved a budget which they thought would be eight to ten months of fiscal '86; and time is passing, so that the fractional need for that appropriation, for that money, is less as each day goes by.

Mr. **Smith**. Well, do you anticipate any unobligated balance at the end of '86?

Mr. **Hennessey**. Well——

Mr. **Smith**. Suppose, for example, that the rescission is not approved and that it dies in April.

Mr. **Hennessey**. I would find that impossible to state, Mr. Chairman, because until the board of directors is in place, no one has any place to go to propose a grant, to make application for a grant. My suspicion is—my inference is, based upon the organizations that I know that are ready, willing, and able to go to work on some of these serious problems that I've emphasized—my suspicion is that if the board of directors is appointed in the near future, that in fiscal '86 there will be application for much more money than is available. It will be a matter of prorating it rather than having an excess, Mr. Chairman. That's my best guess.

Mr. **Smith**. What do you anticipate to be your one time, nonrecurring start-up expenses?

Mr. **Hennessey**. I have that here.

Mr. **Swegle**. There's a very minor figure involved in the nonrecurring, and I think the initial budget request for equipment and that sort of thing is a relatively small figure, and it is accounted for in the second request. The actual administrative costs would be reduced slightly, and the number of full-time personnel would be reduced by one from 15 to 14. But we don't have a specific figure on just what that—we could try to produce that for you, but we do not have it within the materials here.

Mr. **Hennessey**. I don't think the chairman is referring to personnel. The only one time expenses that I can visualize, Mr. Chairman, would be furniture, fixtures, and equipment, and that would be minuscule as compared to the total expenses, as compared to the total funding.

Mr. **Smith**. You submitted your budget, and then we had this rescission proposed. What comment have you had from OMB or the administration on the rescission, on why they set it up?

Mr. **Hennessey**. Have you had any comment, Harry?

Mr. **Swegle**. The only thing we know is that the White House was proceeding with all due haste to make the appointments to the board. We thought everything was on track. The 11 nominees were selected; the names were given to the FBI for field investigations which have been largely completed. We were at the virtual day of those names going to the Senate for confirmation when the Gramm-Rudman bill came onto the scene—I think it was in the same week that this was going on—and all we know is that just overnight, the White House stopped talking about the appointments.

Mr. **Smith**. Well, Gramm-Rudman would account for the $344,000 reduction, but not for the rescission.

Mr. **Swegle**. All we know is, the administration was proceeding on the assumption that this institute would come into effect and become operative right up to the moment that we saw the February 5th budget come up——

Mr. **Smith**. But you haven't had any direct conversations with them, then, as to why they sent up the rescission?

Mr. **Swegle**. No. It's only the assumption that they've decided that this is where they will save some of the money that they want to save in the '86 and '87 Gramm-Rudman cuts.

PILOT PROGRAMS

Mr. **Smith**. Now, with regard to these grants that are going to be distributed, do you anticipate a pilot program? Are you going to set up a process from the beginning, or how?

Mr. **Hennessey**. There would be various kinds, Mr. Chairman. They certainly would involve those organizations which, in terms of studies and work in the area of the administration of justice, have proven themselves in the past. But on the other hand, I certainly see no reason why the State and Federal judges of a particular jurisdiction could not, themselves, ask for a pilot program in their jurisdiction to work on some of these problems that we've talked about—in terms of habeas corpus, for instance— it's never been done.

So it would be proven organizations and the judiciary itself, would be some of those——

Mr. **Smith**. Probably in some of those areas you'd have pilot programs?

Mr. **Hennessey**. Yes. Unquestionably, that's one way to go and one of the important ways to go.

Mr. **Smith**. Mr. Dwyer?

Mr. **Dwyer**. If I may, Mr. Chairman.

Do you anticipate that one of these pilot programs might investigate this medical malpractice and product liability? We read about it in the paper day after day.

Mr. **Hennessey**. Yes, Congressman, I would anticipate that someone—perhaps the medical associations— would be urging some organization which has proven expertise in the area of judicial administration, and there are many in the country—would be urging them to move into this area to study it, yes. Because the interrelationship between State and Federal law—as one who may someday have to administer on a State basis a Federal statutory instruction, I say it boggles the mind. It needs great study.

Mr. **Dwyer**. Thank you.

ADMINISTRATIVE EXPENSES

Mr. **Smith**. Of this request you have, how much of it is for grants and how much for administrative expenses?

Mr. **Hennessey**. For '87, the grants would be $9 million and the administrative expenses would be $834,000, or 8.49 percent of the total funding.

Mr. **Smith**. Do you have established yet any system of priorities with regard to grants?

Mr. **Hennessey**. No, Mr. Chairman. I would think that while the National Conference of Chief Justices is, of necessity—by reason of the absence of a board of directors, the President having not appointed one—while we can go this far, and can prepare a budget, while we can espouse the cause, I think it would be presumptuous and beyond our powers to assume anything beyond that, which would be certainly within the powers only of the board of directors when they are appointed.

Mr. **Smith**. Well, thank you very much, Chief Justice Hennessey, and we'll see what we can do.

Mr. **Hennessey**. Thank you very much, Mr. Chairman. I appreciate it. Mr. Dwyer, you, too.

[Statement of Chief Justice Reynoldson follows:]

Supreme Court
STATE OF IOWA
DES MOINES

STATEMENT

OF

CHIEF JUSTICE W. WARD REYNOLDSON
SUPREME COURT OF IOWA

BEFORE

THE BROOKINGS INSTITUTION
FIFTH SEMINAR ON THE ADMINISTRATION OF JUSTICE

COLONIAL WILLIAMSBURG
JANUARY 31, 1982

THE WILLINGNESS OF THIS DISTINGUISHED GROUP TO HEAR FROM A STATE COURT JUSTICE IS A THOUGHTFUL AND CONSIDERATE GESTURE. I MUST CONFESS, HOWEVER, TO SOME APPREHENSION--NOT RELATED TO MY FIFTEEN-MINUTE SPEAKING ALLOTMENT, BUT TO MR. CIKIN'S WARNING THERE WOULD BE A SUBSEQUENT QUESTION AND ANSWER PERIOD. MY REACTION, BASED ON MANY YEARS' EXPERIENCE AS A TRIAL LAWYER BEFORE JOINING THE JUDICIARY, IS TO TAKE THE OFFENSIVE AND RAISE THE QUESTIONS, CONFIDENT THAT MY LISTENERS HAVE THE ABILITY TO PROVIDE THE ULTIMATE LEGISLATIVE AND EXECUTIVE DEPARTMENT ANSWERS TO THE TROUBLING ASPECTS OF FEDERAL-STATE JUDICIAL RELATIONS.

IOWA IS A TYPICAL STATE IN THE HEARTLAND OF AMERICA, ITS ECONOMIC FOUNDATION BRACED IN BOTH AGRICULTURE AND MANUFACTURING. ITS POPULATION IS MORE URBAN THAN RURAL AND IS ETHNICALLY, ECONOMICALLY, AND RACIALLY DIVERSE - IN OUR PECULIARLY AMERICAN FASHION. THEREFORE, IN MANY WAYS, THE INTERFACE OF ITS FEDERAL AND STATE LITIGATION IS A MICROCOSM OF NATIONAL JUDICIAL STRENGTHS AND FRAILTIES. FROM MY PERSPECTIVE AND EXPERIENCE I HAVE GRAVE CONCERNS ABOUT PRESENT FEDERAL STATUTES IN THE AREAS OF HABEAS CORPUS[1] AND

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[1] 28 U.S.C. SECTIONS 2241-54 (1976 & SUPP. III 1979).

DIVERSITY JURISDICTIONS,[2] AND SECTION 1983 REMEDIES.[3] MOREOVER, I QUESTION WHETHER THE RATIONALE UNDERLYING THE ALLOCATION OF FEDERAL VIS-A-VIS STATE JURISDICTION IN SOME OF THOSE ENACTMENTS IS STILL VIABLE, AND WHETHER THE COMBINED FEDERAL AND STATE JUDICIAL DEPARTMENTS CAN BEAR THE PRESENT BURDENS OF THE JUDICIALLY EXPANDED SECTION 1983. I AM ALSO CONCERNED ABOUT THE PROPOSED LEGISLATION THAT WOULD DENY FEDERAL COURT JURISDICTION IN CERTAIN CONTROVERSIAL AREAS.

I FOOTNOTE THE CAVEAT THAT UNLESS SPECIFIED OTHERWISE, THE VIEWS I EXPRESS ARE MY OWN.

THE FIRST QUESTION I POSE ASKS WHY, IN AN ERA OF CRUSHING FEDERAL CASE LOADS, LIMITED FEDERAL FUNDS, AND THE WELCOMED RESURRECTION OF FEDERALISM, THERE IS A CONTINUED DUPLICATION OF JUDICIAL EFFORTS AND AN UNRELENTING OVERSIGHT OF STATE JUDICIAL OPERATIONS. ON THE STATE LEVEL, OUR PROSECUTORIAL RESOURCES ARE BEING SQUANDERED, OUR JUDGES FRUSTRATED, AND OUR CITIZENS DISILLUSIONED BY THE LACK OF FINALITY IN CRIMINAL CONVICTIONS. THE REDUNDANCY OF COLLATERAL FEDERAL HABEAS CORPUS

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[2] 28 U.S.C. SECTION 1332 (1976).

[3] 42 U.S.C. SECTION 1983 (SUPP. III 1979). THE ENTIRE SECTION IS AS FOLLOWS:

> EVERY PERSON WHO, UNDER COLOR OF ANY STATUTE, ORDINANCE, REGULATION, CUSTOM OR USAGE, OF ANY STATE OR TERRITORY OR THE DISTRICT OF COLUMBIA, SUBJECTS, OR CAUSES TO BE SUBJECTED, ANY CITIZEN OF THE UNITED STATES OR OTHER PERSON WITHIN THE JURISDICTION THEREOF TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED BY THE CONSTITUTION AND LAWS, SHALL BE LIABLE TO THE PARTY INJURED IN AN ACTION AT LAW, SUIT IN EQUITY, OR OTHER PROPER PROCEEDING FOR REDRESS. FOR THE PURPOSES OF THIS SECTION, ANY ACT OF CONGRESS APPLICABLE EXCLUSIVELY TO THE DISTRICT OF COLUMBIA SHALL BE CONSIDERED TO BE A STATUTE OF THE DISTRICT OF COLUMBIA.

ATTACKS ON STATE JUDGMENTS[4] AND THE SPECTRE OF STATE SUPREME COURT DECISIONS, CAREFULLY RESEARCHED AND REASONED TO PROVIDE DEFENDANTS THE FULL PANOPLY OF FEDERAL CONSTITUTIONAL RIGHTS, BEING SET ASIDE BY THE RULING OF A SINGLE FEDERAL DISTRICT JUDGE[5] ARE SHACKLING OUR CRIMINAL LAW. CHIEF JUSTICE BURGER ADDRESSED THESE PROBLEMS IN HIS 1981 YEAR-END REPORT ON THE JUDICIARY WHEN HE WROTE:

> I HOPE CONGRESS WILL PROMPTLY CONSIDER LIMITING FEDERAL COLLATERAL REVIEW OF STATE COURT CONVICTIONS TO CLAIMS OF MANIFEST MISCARRIAGES OF JUSTICE. THE ADMINISTRATION OF JUSTICE IN THIS COUNTRY IS PLAGUED AND BOGGED DOWN WITH LACK OF REASONABLE FINALITY OF JUDGMENTS IN CRIMINAL CASES.

EXPLORE WITH ME FOR A MOMENT THE ANATOMY OF A 1977 IOWA MURDER TRIAL, *STATE V. MOORE*. MOORE, WHO HAD ASSAULTED AND

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[4] THIS PROBLEM IS DISCUSSED IN *REFORM OF HABEAS CORPUS PROCEDURES, 1981: HEARING ON S. 653 BEFORE THE SUBCOMM. ON COURTS OF THE SENATE COMM. ON THE JUDICIARY*, 97TH CONG., 1ST SESS. (NOV. 13, 1981)(STATEMENT OF JONATHAN C. ROSE, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE)(MIMEO)("[T]HE CAUSE OF JUSTICE IS NOT ADVANCED BY A PROCRUSTEAN INSISTENCE ON REPEATED JUDICIAL EXAMINATION OF CLOSE OR UNSETTLED QUESTIONS OF A LEGAL OR MIXED LEGAL-FACTUAL CHARACTER THAT FREQUENTLY YIELD DIVERGENT DECISIONS EVEN AMONG THE FEDERAL COURTS.")

THE SCOPE OF THESE COLLATERAL ATTACKS IS SUMMARIZED IN L. YACKLE, *POSTCONVICTION REMEDIES* 366-70 (1981).

[5] MORE DISTURBING IS THE MAJOR ROLE OF FEDERAL MAGISTRATES AND LAW CLERKS IN THESE DECISIONS. IN 1981 THERE WERE 7,790 STATE PRISONER HABEAS DISPOSITIONS. ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, *1981 ANNUAL REPORT OF THE DIRECTOR* 63 (PRE. ED. 1981). OF THESE, MAGISTRATES DISPOSED OF 5,270. *ID.* AT A-152. THE NECESSARY EXPANDING RELIANCE ON FEDERAL LAW CLERKS, MOST OF WHOM NEVER HAVE HELD A RESPONSIBLE POSITION IN THE TRIAL OF A CASE, HAS BECOME A SUBJECT OF CONCERN. *SEE* CANNON & CIKINS, *INTERBRANCH COOPERATION IN IMPROVING THE ADMINISTRATION OF JUSTICE: A MAJOR INNOVATION*, 38 WASH. & LEE L. REV. 1, 16 (1981); MCCREE, *BUREAUCRATIC JUSTICE: AN EARLY WARNING*, 129 U. PA. L. REV. 777, 785-87 (1981); RUBIN, *BUREAUCRATIZATION OF THE FEDERAL COURTS: THE TENSION BETWEEN JUSTICE AND EFFICIENCY*, 55 NOTRE DAME LAW. 648, 652-53 (1980).

INJURED A JAILER AT A RECESS, IN THE COURSE OF TRIAL BADGERED A WITNESS, USED VULGAR LANGUAGE, AND PERSISTED IN PROFANE AND DISRESPECTFUL STATEMENTS TO THE COURT. AFTER CALLING ANOTHER RECESS AND SUBSEQUENTLY WARNING HIM, TRIAL COURT ULTIMATELY HAD MOORE REMOVED FROM THE COURTROOM DURING TWENTY-FIVE MINUTES OF AN EXPERT'S TESTIMONY. IN A 1979 DECISION, THE IOWA SUPREME COURT RULED MOORE HAD WAIVED HIS SIXTH AMENDMENT RIGHT TO CONFRONT THE ADVERSE WITNESS AND UPHELD HIS CONVICTION.[6] OUR OPINION QUOTED THE RELEVANT PORTION OF THE TRANSCRIPT AND APPLIED AS CONTROLLING THE SUPREME COURT'S STANDARDS LAID DOWN IN ILLINOIS V. ALLEN.[7] IN 1980 A FEDERAL TRIAL JUDGE, RULING ON MOORE'S APPLICATION FOR WRIT OF HABEAS CORPUS, SET OUT THE SAME PORTION OF THE TRANSCRIPT, FOUND ILLINOIS V. ALLEN TO BE CONTROLLING, BUT ISSUED THE WRIT.[8] IN 1981, FOLLOWING THE STATE'S APPEAL, THE EIGHTH CIRCUIT, AGAIN QUOTING THE THEN-FAMILIAR PORTION OF THE TRANSCRIPT AND FOR THE THIRD TIME APPLYING ILLINOIS V. ALLEN STANDARDS, AGREED WITH THE IOWA SUPREME COURT AND REVERSED THE FEDERAL DISTRICT COURT.[9]

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[6] STATE V. MOORE, 276 N.W.2D 437 (IOWA 1979).

[7] 397 U.S. 337 (1970).

[8] MOORE V. SCURR, 484 F. SUPP. 1042 (S.D. IOWA 1980), REV'D, 647 F.2D 854 (8TH CIR. 1981).

[9] SCURR V. MOORE, 647 F.2D 854 (8TH CIR. 1981).

THUS MOORE WAS PERMITTED TO COLLATERALLY ATTACK HIS CONVICTION IN TWO FEDERAL COURTS EVEN THOUGH THE IDENTICAL ISSUE WAS FAIRLY AND FULLY CONSIDERED AND DECIDED IN HIS STATE COURT DIRECT APPEAL. THIS PROCESS INJECTED OVER TWO YEARS OF UNCERTAINTY INTO HIS CASE AFTER HIS STATE APPEAL WAS CONCLUDED, COST IOWA SUBSTANTIAL RESOURCES TO DEFEND THE JUDGMENT IT HAD SECURED IN ONE STATE COURT AND RETAINED IN ANOTHER, AND RISKED TENSIONS BETWEEN THE STATE AND FEDERAL COURTS IN IOWA.

NO ONE SUGGESTS FEDERAL OVERSIGHT OF STATE DECISIONS INVOLVING FEDERAL CONSTITUTIONAL RIGHTS SHOULD BE ELIMINATED. ADOPTION OF LEGISLATION LIKE PROPOSALS S. 653 AND H.R. 3416, HOWEVER, WOULD AVOID MANY UNFORTUNATE AND WASTEFUL PROCEEDINGS.[10]

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[10] GENERALLY, THESE BILLS WOULD 1) PROHIBIT A FEDERAL MAGISTRATE FROM CONDUCTING EVIDENTIARY HEARINGS IN HABEAS CORPUS CASES INSTITUTED BY STATE PRISONERS WITHOUT CONSENT OF THE PARTIES, 2) CODIFY THE WAINWRIGHT V. SYKES, 433 U.S. 72 (1977), HOLDING THAT BARS LITIGATION OF ISSUES NOT PROPERLY PASSED IN STATE COURT UNLESS "CAUSE AND PREJUDICE" IS SHOWN FOR FAILING TO COMPLY WITH STATE COURT PROCEDURES, 3) IMPOSE A STATUTE OF LIMITATIONS FOR FEDERAL HABEAS CORPUS PROCEEDINGS, AND 4) PREVENT FEDERAL DISTRICT COURTS FROM HOLDING EVIDENTIARY HEARINGS IF THE FACTS WERE FULLY EXPANDED AND DETERMINED IN THE STATE COURT PROCEEDING. ALL EXCEPT THE FIRST OBJECTIVE ARE AMONG THE RECOMMENDATIONS OF THE ATTORNEY GENERAL'S TASK FORCE ON VIOLENT CRIME. *SEE* ATTORNEY GENERAL'S TASK FORCE ON VIOLENT CRIME, *FINAL REPORT* 58-60 (1981). *SEE ALSO* SUMNER V. MATA, 449 U.S. 539 (1981).

PERHAPS THE TIME ALSO HAS ARRIVED TO CONSIDER THE PROPOSALS THAT THE PRISONER, FOLLOWING EXHAUSTION OF APPELLATE REVIEW, CONFINE ALL SUBSEQUENT JUDICIAL REVIEW TO CLAIMS OF MISCARRIAGE OF JUSTICE, BERGER, *ANNUAL REPORT TO THE AMERICAN BAR ASSOCIATION*, 67 A.B.A. J. 290, 293 (1981), OR, "WITH A FEW IMPORTANT EXCEPTIONS," PERMIT COLLATERAL ATTACK "ONLY WHEN THE PRISONER SUPPLEMENTS HIS CONSTITUTIONAL PLEA WITH A COLORABLE CLAIM OF INNOCENSE," FRIENDLY, *IS INNOCENSE IRRELEVANT? COLLATERIAL ATTACK ON CRIMINAL JUDGMENTS*, 38 U. CHI. L. REV. 142, 142 (1970). FOR ADDITIONAL DISCUSSION SEE SCHAEFER, *IS THE ADVERSARY SYSTEM WORKING IN OPTIONAL FASHION?* IN *THE POUND CONFERENCE: PERSPECTIVES ON JUSTICE IN THE FUTURE* 171, 182 (A. LEVIN & R. WHEELER ED. 1979).

the general principles incorporated in those proposed legislative amendments were endorsed, and their enactment into law recommended, by a resolution of the Conference of Chief Justices adopted at its thirty-third annual meeting last summer. It is my view, shared by many state Justices, that the same purposes would be served if the bill to establish a National Court of Appeals, S. 1529, were to be modified to create a National Court of *State* Appeals, under the Supreme Court, to assume discretionary jurisdiction of all appeals from, and all collateral attacks on, state court decisions involving federal questions.[11]

My second question raises the issue whether the antiquated federal enactments granting diversity jurisdiction to the federal courts finally should be interred. In his famous 1906 address, "The Causes of Popular Dissatisfaction with the Administration of Justice," Roscoe Pound described this system as "archaic."[12] Seventy years later, at the historic Pound Conference of leading lawyers and jurists at St. Paul,

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[11] *See* Cameron, *Federal Review, Finality of State Court Decisions, and a Proposal for a National Court of Appeals-- A State Judge's Solution to a Continuing Problem*, 1981 B.Y.U. L. Rev. 545, 558-74.

[12] Pound, *The Causes of Popular Dissatisfaction with the Administration of Justice*, *reprinted in The Pound Conference: Perspectives on Justice in the Future* 337, 347 (A. Levin & R. Wheeler ed. 1979).

Judge Murry Gurfein of the Court of Appeals for the Second Circuit reported it was the unanimous view of his discussion group that diversity jurisdiction should be taken out of the federal courts.[13]

Diversity cases in federal courts ordinarily involve personal injury damage actions and contract disputes, all involving state law interpretations.[14] This is routine grist for state court judicial mills, and not an area of federal judge expertise. In Iowa the Uniform Certification of Questions of Law Act became effective in 1980.[15] A number of questions certified by the federal district court to the Iowa Supreme Court have been decided. Others are in our pipeline, essentially to be treated as any appeal from a state court. Typical of the certified question is this: Can one who leaves keys in a car be held liable for the car thief's negligent driving?[16] Obviously, that federal court was immersed in litigation involving neither a federal

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[13] *The Pound Conference: Perspectives on Justice in the Future* 140-41 (A. Levin & R. Wheeler ed. 1979).

[14] Of the 45,444 diversity cases filed during the 12-month period ending June 30, 1981, 21,736 were contract actions and 19,780 were personal injury actions. Administrative Office of the United States Courts, *Annual Report of the Director* A-16 (pre. ed. 1981).

[15] Iowa Code ch. 684A (1981).

[16] *See* Roadway Express, Inc. v. Piekenbrock, 306 N.W.2d 784, 784 (Iowa 1981).

QUESTION NOR FEDERAL COURT EXPERTISE. FEDERAL COURT LITIGANTS IN THESE CASES CONSUME THE RESOURCES OF BOTH THE STATE AND FEDERAL COURTS IN DUPLICITOUS EXAMINATIONS OF RELATED ISSUES: FIRST, A FEDERAL SEARCH AND DETERMINATION THERE ARE NO CONTROLLING STATE STATUTES OR PRECEDENTS; AND SECOND, A STATE RESOLUTION OF A QUESTION WE LIKELY WOULD NOT ACCEPT IF PRESENTED AS A GROUND FOR AN INTERLOCUTORY APPEAL FROM A STATE COURT.

FEW TODAY SERIOUSLY CONTEND THE NONRESIDENT PARTY SUFFERS FROM LOCAL PREJUDICE SIMPLY BECAUSE OF NONRESIDENCE. AN UNDERLYING BUT SELDOM DISCUSSED REASON DIVERSITY JURISDICTION SURVIVES IS THE ENCRUSTED CONCEPT THAT STATE COURT JUDGES ARE INFERIOR IN SOME WAY, A SUBJECT I SHALL ADDRESS SHORTLY.

MY THIRD QUESTION INQUIRES WHETHER THE COMBINED EFFORTS OF FEDERAL AND STATE COURTS AS PRESENTLY FINANCED CAN BEAR FOR LONG THE BURDEN OF JUDICIALLY EXPANDED SECTION 1983. THIS 1871 ENACTMENT, DESIGNED TO NULLIFY THE SINISTER INFLUENCE OF THE KU KLUX KLAN ON THE LAW ENFORCEMENT OFFICERS AND COURTS OF THE SOUTHERN STATES IN THE POST CIVIL WAR PERIOD,[17] SERVED A LIMITED PURPOSE UNTIL 1961. THEN *MONROE V. PAPE* RELEASED THE LITIGATION FLOODGATES BY HOLDING THAT EVEN THOUGH THERE MIGHT EXIST A STATE REMEDY TO WHICH AN INJURED PARTY COULD LOOK FOR RELIEF, THE FEDERAL REMEDY "IS SUPPLEMENTARY TO THE STATE REMEDY, AND THE LATTER NEED NOT

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[17] *SEE* MONROE V. PAPE, 365 U.S. 167, 174 (1961), *REV'D ON OTHER GROUNDS*, MONELL V. DEPARTMENT OF SOCIAL SERVS., U.S. 658, 663 (1978).

BE FIRST SOUGHT AND REFUSED BEFORE THE FEDERAL ONE IS INVOKED."[18] SUBSEQUENT SUPREME COURT DECISIONS HAVE HELD THAT LOCAL GOVERNMENTAL UNITS COULD BE SUED DIRECTLY UNDER SECTION 1983 FOR DAMAGES, DECLARATORY JUDGMENTS, OR INJUNCTIVE RELIEF;[19] THAT A MUNICIPALITY SUED UNDER SECTION 1983 MAY NOT ASSERT THE GOOD FAITH OF ITS OFFICERS OR AGENTS AS A DEFENSE;[20] AND THAT SECTION 1983 ACTIONS NO LONGER WOULD BE LIMITED TO ALLEGED CONSTITUTIONAL VIOLATIONS, BUT COULD INCLUDE ALLEGED VIOLATIONS OF ANY FEDERAL LAW.[21]

ALTHOUGH BETWEEN 1871 AND 1920 ONLY 21 SECTION 1983 CASES WERE BROUGHT IN FEDERAL COURT,[22] THERE WERE 218 STATE PRISONER PETITIONS IN 1966, AND 12,580 IN 1980.[23] IN 1981 OVER FORTY PERCENT OF THE "PRIVATE" FEDERAL QUESTION CASES, THAT IS, NOT AGAINST THE UNITED STATES AND ITS OFFICERS,

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[18] *ID.* AT 183; *SEE* FAIR ASSESSMENT IN REAL ESTATE ASS'N V. MCNARY, 50 U.S.L.W. 4017 (U.S. DEC. 1, 1981)(NO. 80-427).

[19] MONELL V. DEPARTMENT OF SOCIAL SERVS., 436 U.S. 658, 690 (1978).

[20] OWEN V. CITY OF INDEPENDENCE, 445 U.S. 622, 638, *REH'G DENIED*, 446 U.S. 993 (1980).

[21] MAINE V. THIBOUTOT, 448 U.S. 1, 4-8 (1980). BECAUSE *THIBOUTOT* DID NOT DISTURB CHAPMAN V. HOUSTON WELFARE RIGHTS ORG. 441 U.S. 600 (1979)(HOLDING THE FEDERAL JURISDICTIONAL COUNTERPART OF SECTION 1983, 28 U.S.C. SECTION 1343, DOES NOT CONFER JURISDICTION UPON A FEDERAL DISTRICT COURT TO HEAR CLAIMS BASED ON THE SOCIAL SECURITY ACT), IT MAY BE ANTICIPATED THAT *THIBOUTOT* TYPE CASES WILL ORIGINATE IN STATE COURTS.

[22] COMMENT, *THE CIVIL RIGHTS ACT: EMERGENCE OF AN ADEQUATE FEDERAL CIVIL REMEDY?* 26 IND. L.J. 361, 363 (1951).

[23] PARRATT V. TAYLOR, 68 L. ED. 2D 420, 440 N. 13 (1981).

WERE CIVIL RIGHTS SUITS AGAINST STATE AND LOCAL OFFICIALS.[24] OF THESE, 15,639 WERE BROUGHT BY STATE PRISONERS, A 155 PERCENT INCREASE FROM 1975.[25] OF COURSE, SECTION 1983 AS INTERPRETED BY THE SUPREME COURT IS BEING ENFORCED IN THE STATE COURTS.[26] WE HAVE NO COUNT OF THE NUMBER OF 1983 CASES IN STATE COURTS, BUT WE DO KNOW THEY ARE NUMEROUS AND THAT THEY ARE SURFACING AT THE APPELLATE LEVEL.[27] SOME INSIGHT INTO THE EPIC PROPORTIONS OF THIS BURDEN IS GAINED FROM THE REPORTS OF ONLY 169 MUNICIPALITIES THAT DISCLOSE PENDING CIVIL RIGHTS CLAIMS TOTALING MORE THAN FOUR BILLION DOLLARS.[28]

JUST AS TOCQUEVILLE 150 YEARS AGO NOTED THAT SCARCELY A POLITICAL QUESTION ARISES IN THE UNITED STATES THAT CANNOT BE RESOLVED, SOONER OR LATER, INTO A JUDICIAL QUESTION,[29] WE

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[24] *SEE* *ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, 1981 ANNUAL REPORT OF THE DIRECTOR* A-16-17 (PRE. ED. 1981).

[25] *ID.* AT 63, A-17.

[26] *SEE* MARTINEZ V. CALIFORNIA, 444 U.S. 277, 283-84 N. 7 (1980).

[27] *SEE, E.G.,* MAINE V. THIBOUTOT, 448 U.S. 1 (1980) (SUPREME COURT GRANTED CERTIORARI TO SUPREME JUDICIAL COURT OF MAINE); BLESSUM V. HOWARD COUNTY, 295 N.W.2D 836, 844-47 (IOWA 1980).

[28] COLELLA, *THE MANDATE, THE MAYOR, AND THE MENANCE OF LIABILITY,* 7 INTERGOVERNMENTAL PERSP. FALL 1981, AT 18-19.

[29] A. TOCQUEVILLE, *DEMOCRACY IN AMERICA* 280 (KNOFF 1956).

NOW OBSERVE THAT SCARCELY AN UNFORTUNATE INCIDENT OCCURS THAT ENTERPRISING COUNSEL CANNOT TRANSLATE INTO AN ALLEGED VIOLATION OF THE UNITED STATES CONSTITUTION OR FEDERAL LAWS. WITNESS, FOR EXAMPLE, THE DEBATE OF THE UNITED STATES SUPREME COURT IN *PARRATT V. TAYLOR*,[30] EXTENDING EIGHTEEN PAGES IN THE UNITED STATES SUPREME COURT REPORTS LAWYERS' EDITION AND RELATING TO THE NEGLIGENCE OF NEBRASKA PRISON PERSONNEL IN LOSING $23.50 WORTH OF HOBBY MATERIALS ORDERED BY A PRISONER. THIS IS THE KIND OF CLAIM THAT IN IOWA WOULD BE THE PROPER SUBJECT OF AN ACTION IN A MAGISTRATE'S SMALL CLAIMS COURT. THE INQUIRY HERE IS WHETHER OTHER BRANCHES OF GOVERNMENT HAVE PROVIDED THE RESOURCES FOR FEDERAL AND STATE GENERAL JURISDICTION AND APPELLATE COURTS TO DO PERFECT JUSTICE IN EVERY MISHAP--TO TRACE THE FALLEN SPARROW--OR WHETHER THIS AREA WOULD BE AN APPROPRIATE ONE FOR THE STUDY OF THE PROPOSED FEDERAL JURISDICTION REVIEW AND REVISION COMMISSION, S. 675, INTRODUCED BY SENATOR THURMOND AND OTHERS AND ENDORSED BY CHIEF JUSTICE BURGER IN HIS YEAR-END MESSAGE.[31]

FINALLY, I AND MANY STATE APPELLATE JUDGES QUESTION THE WISDOM, WITHOUT REGARD TO THE CONSTITUTIONAL ISSUES, OF THOSE BILLS IN CONGRESS THAT WOULD STRIP THE FEDERAL COURTS, INCLUDING THE SUPREME COURT, OF SUBSTANTIVE JURISDICTION IN

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[30] 68 L. ED. 2D 420 (1981).

[31] BURGER, *YEAR-END REPORT ON THE JUDICIARY* 21-22 (DEC. 28, 1981)(UNPUBLISHED MANUSCRIPT).

CERTAIN AREAS INVOLVING SCHOOL PRAYER, ABORTION, BUSING, AND SEX DISCRIMINATION IN THE ARMED SERVICES.[32] FIRST, IF THIS LEGISLATION BECOMES LAW AND WHEN STATE COURT JUDGES HONOR THEIR ARTICLE VI OATHS,[33] THE HOLDINGS OF THE SUPREME COURT DECISIONS TARGETED BY THIS LEGISLATION WILL BE CAST IN STONE, BEYOND THE REACH OF THE SUPREME COURT TO ALTER OR OVERRULE.

SECOND, IT MUST BE RECOGNIZED THAT STATE COURT LITIGATION CONSTANTLY PRESENTS NEW SITUATIONS TESTING THE BOUNDARIES OF FEDERAL CONSTITUTIONAL RIGHTS AND REQUIRING JUDGMENT CALLS ON THE APPLICABILITY OF FEDERAL CONSTITUTIONAL PRINCIPLES. WITHOUT THE UNIFYING FUNCTION OF SUPREME COURT REVIEW, THE UNITED STATES CONSTITUTION COULD MEAN SOMETHING DIFFERENT IN EACH OF THE FIFTY STATES. ASIDE FROM THE OBVIOUS EFFECT OF THIS ANOMALY ON THE NATION'S CITIZENS, THE RESULTING INCONSISTENCIES IN LEGAL PRECEDENT AND THE MORE FREQUENT JURISDICTIONAL DISPUTES WOULD FURTHER OVERLOAD STATE COURTS.

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[32] *SEE, E.G.*, H.R. 326, 97TH CONG., 1ST SESS. (1981). ("[T]HE SUPREME COURT SHALL NOT HAVE JURISDICTION TO REVIEW, BY APPEAL, WRIT OF CERTIORARI, OR OTHERWISE, ANY CASE ARISING OUT OF ANY STATE STATUTE, ORDINANCE, RULE, REGULATION OR ANY PART THEREOF, OR ARISING OUT OF ANY ACT INTERPRETING, APPLYING, OR ENFORCING A STATE STATUTE, ORDINANCE, RULE OR REGULATION, WHICH RELATES TO VOLUNTARY PRAYERS IN PUBLIC SCHOOLS AND PUBLIC BUILDINGS."); TAYLOR, *LIMITING FEDERAL COURT JURISDICTION: THE UNCONSTITUTIONALITY OF CURRENT LEGISLATIVE PROPOSALS*, 65 JUDICATURE 199, 202 (1981) (DESCRIBING PENDING BILLS).

[33] THESE OATHS ARE REQUIRED BY THE SUPREMACY CLAUSE, U.S. CONST. ART. VI.

THIRD, AND MOST IMPORTANT, THESE PROPOSED STATUTES GIVE THE APPEARANCE OF PROCEEDING FROM THE PREMISE THAT STATE COURT JUDGES WILL NOT HONOR THEIR OATHS TO OBEY THE UNITED STATES CONSTITUTION, NOR GIVE FULL FORCE TO CONTROLLING SUPREME COURT PRECEDENTS.[34] SO VIEWED, THESE EFFORTS TO TRANSFER JURISDICTION TO THE STATE COURTS NEITHER ENHANCE THE IMAGE OF THOSE INSTITUTIONS NOR DEMONSTRATE CONFIDENCE THAT STATE COURT JUDGES WILL DO THEIR DUTY. THIS CONCEPT APPLIES, WITH A REVERSE TWIST, AN OBSOLETE AND DENIGRATING NOTION ENTERTAINED BY SUPPORTERS OF THE CURRENT OVEREXTENDED REACH OF FEDERAL HABEAS CORPUS COLLATERAL ATTACKS, DIVERSITY JURISDICTION, AND SECTION 1983: THAT STATE COURTS ARE INFERIOR AND CANNOT BE TRUSTED, THAT STATE JUDGES ARE INSENSITIVE TO FEDERAL CONSTITUTIONAL RIGHTS AND IGNORANT OF FEDERAL LAW. THERE IS NO EVIDENCE TO SUPPORT THOSE CONCLUSIONS, AND IT IS PAST TIME FOR THESE MISCONCEPTIONS TO BE REJECTED.

THERE IS HARD EVIDENCE THAT SHOWS HOW INTERTWINED STATE AND FEDERAL LAW HAS BECOME. AMONG THE 281 PUBLISHED OPINIONS OF THE IOWA SUPREME COURT IN 1981, 72 CRIMINAL CASES CITED A total of 327 federal decisions.[35] Fifty-three federal cases were cited in eight post-conviction opinions. Fifty-seven civil cases cited a total of 188 federal cases. Twenty of our opinions cited the United States Code; 27 cited the federal rules of criminal or civil procedure or the federal rules of evidence. I am convinced, but cannot prove, that Iowa appellate justices spend almost as much time in the federal reporters as in state reporters. Degrading the sense of responsibility, experience and training of modern-day state judges ignores the enormous strides made in state court judicial systems, including but not limited to merit selection and tenure, The National College for the Judiciary in Nevada, The Institute for Court Management in Colorado, and The National Center for State Courts in this historic city. The Supreme Court, most recently in Allen v. McCurry[36] in 1980 and Sumner v. Mata[37] in 1981, has expressed its confidence in the ability of state courts to uphold federal law.

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[34] SAGER, *THE SUPREME COURT, 1980 TERM--FORWARD: CONSTITUTIONAL LIMITATIONS ON CONGRESS' AUTHORITY TO REGULATE THE JURISDICTION OF THE FEDERAL COURTS*, 95 HARV. L. REV. 17, 68 (1981)("IN ATTEMPTING TO PASS TO THE STATE COURTS THE BURDEN OF ADJUDICATING CASES IN THIS AREA, CONGRESS BETRAYS ITS HOPE AND EXPECTATION THAT THE STATE COURTS WILL DISHONOR FEDERAL PRECEDANT AND REFUSE TO RECOGNIZE THE DISFAVORED RIGHTS.").

I suggest the same trust should now be evidenced in federal legislation designed to eliminate wasteful duplication of federal and state court efforts and to mesh their respective

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[35] In contrast, the Iowa Supreme Court cited only 12 federal decisions in the 52 criminal cases it decided in 1927. It was not until Powell v. Alabama, 287 U.S. 45 (1932), that the United States Supreme Court began to apply the requirements of the federal Bill of Rights to the states.

[36] 449 U.S. 90, 105 (1980).

[37] 449 U.S. 539, 549 (1981)("State judges as well as federal judges swear allegiance to the Constitution of the United States, and there is no reason to think that because of their frequent differences of opinions as to how that document should be interpreted that all are not doing their mortal best to discharge their oath of office.").

JURISDICTIONAL GEARS, EACH ROTATING ON ITS OWN AXIS IN THE HIGHEST TRADITION OF FEDERALISM, TO GENERATE EFFICIENT JUSTICE FOR THE GREATEST NUMBER OF AMERICANS.

IN CLOSING, I CANNOT AVOID ADDING (ALTHOUGH MR. CIKINS CAUTIONED ME YOU ARE THOROUGHLY ACQUAINTED WITH THE CONCEPT) THAT ADOPTION OF THE STATE JUSTICE INSTITUTE ACT[38] WOULD FACILITATE BETTER STATE-FEDERAL JUDICIAL RELATIONS. THE STATE JUSTICE INSTITUTE WOULD HAVE AUTHORITY TO FUND RESEARCH, DEMONSTRATION AND EVALUATION PROJECTS, INFORMATION CLEARINGHOUSES, JUDICIAL EDUCATION AND TRAINING PROGRAMS, AND JOINT PROJECTS WITH OTHER AGENCIES INCLUDING THE FEDERAL JUDICIAL CENTER, THE NATIONAL INSTITUTE OF JUSTICE, AND THE BUREAU OF JUSTICE STATISTICS. SUCH ACTIVITY WOULD ENHANCE STATE COURT CASEFLOW AND STATURE, AND DEFUSE LOBBYING EFFORTS OF THOSE CLAIMING STATE COURTS ARE INADEQUATE FORUMS FOR DIVERSITY CASES AND OTHER LITIGATION NOW LOGJAMMING FEDERAL COURTS. IN TURN, THIS SHOULD MAKE IT POLITICALLY FEASIBLE TO RETURN TO THE STATES DIVERSITY JURISDICTION, AND EVENTUALLY, THE FIRST-LINE RESPONSIBILITY IN A SIZABLE SEGMENT OF THOSE CASES NOW INITIATED IN FEDERAL COURT UNDER HABEAS CORPUS AND SECTION 1983.

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[38] S. 537, 97TH CONG., 1ST SESS. (1981); H.R. 2407, 97TH CONG., 1ST SESS. (1981). THE SENATE BILL HAS BEEN APPROVED BY THE SENATE COMMITTEE ON THE JUDICIARY.

THE PROPOSAL FOR CREATION OF THE STATE JUSTICE INSTITUTE WAS INTRODUCED IN THE 96TH CONGRESS AS S. 2387 AND H.R. 6709. THE BILL WAS BROUGHT TO A VOTE AND UNANIMOUSLY PASSED BY THE SENATE ON JULY 21, 1980. IT WAS APPROVED AT THE SUBCOMMITTEE LEVEL IN THE HOUSE.

THE STATE JUSTICE INSTITUTE'S LIMITED COST SHOULD BE OVERSHADOWED BY THE SUBSTANTIAL FEDERAL SAVINGS RESULTING FROM RESTRAINTS ON THE GROWTH OF THE FEDERAL CASE LOAD. A CONCOMITANT DECREASE IN THE DEMAND FOR MORE FEDERAL JUDGESHIPS SHOULD AID PRESENT JUDGES IN MAINTAINING THAT ELITE STATUS AND SENSE OF COLLEGIALITY, FLOWING FROM THEIR LIMITED NUMBER, THAT THEY FIND SO ATTRACTIVE. FINALLY, THE STATE JUSTICE INSTITUTE COULD BECOME ONE OF THE TOOLS UTILIZED BY CONGRESS IN A CONTINUING STUDY OF THE ALLOCATION OF FEDERAL AND STATE JURISDICTION, WITH THE OBJECT OF FINE-TUNING AMERICA'S JUDICIAL SYSTEMS "TO RESTORE THE MUTUAL RESPECT AND THE BALANCED SHARING OF RESPONSIBILITY BETWEEN THE STATE AND FEDERAL COURTS WHICH OUR TRADITION AND THE CONSTITUTION ITSELF SO WISELY CONTEMPLATE."[39]

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[39] SCHNECKLOTH V. BUSTAMONTE, 412 U.S. 218, 265 (1973) (POWELL J., CONCURRING).

Questions Submitted by the Honorable Neal Smith

State Justice Institute

Question

Of the total devoted to program grants, what type of grants would be made and what type of recipients or what class of recipients would be eligible to receive such grants? What do you anticipate the average grant size will be? Will the grants cover annual expenses and studies or will they be multi-year in nature?

Answer

The State Justice Institute Act authorizes grants for a broad range of programs to improve the administration of justice. These include research, demonstration, technical assistance, education and training, information clearinghouse, and cooperative efforts with other state and federal agencies. There are 16 funding categories directed as specific problems of the courts. For instance, the Institute could funds projects aimed at, "alternative means for using nonjudicial personnel in court decisionmaking activities...", or "the causes of trial and appellate court delay..." We anticipate that research grants, for which law schools and other academic institutions are well suited, will be made on a competitive basis. Existing non-profit organizations working for court improvement could logically be expected to receive grants in their areas of expertise. Grantees with highest priority under the Act are the courts themselves and their associated agencies such as the offices of court administration. Next in order are national non-profit organizations providing direct services to the courts as well as those providing for the education and training of judges and support personnel. Law schools and other academic organizations, as noted above, also are eligible to receive grants along with qualified individuals and private businesses. Grants will, of course, vary greatly in size but we would think that most would be from $50,000 to $250,000 because that is the range necessary to produce meaningful and useful results on issues of substance. Many projects can be completed in a single year but major research, technical assistance, and demonstration programs often must extend from one to three years if they are to achieve the desired result.

Question

Do you anticipate establishing a pilot program for your grant activities or are you basing your grants distribution process upon an established procedure already operating elsewhere in government?

Answer

We anticipate the Institute will draw on the experience of related federal grant programs, using what best serves its needs. While we think the Institute a unique agency, designed to improve the overall functioning of the nation's judicial systems, it will have, administratively at least, much in common with existing programs such as those of the National Science Foundation and the National Institute of Justice. The authorizing Act, as noted above, requires compliance with standard auditing, monitoring, and evaluations procedures common to federally funded national discretionary grant programs. However, the Institute's overall program will be a pilot program in that it will seek solutions to problems of the courts that have not been addressed in a systematic manner from a national perspective.

Question

What do you anticipate at this point the one-time, non-recurring start-up expenditures might be in fiscal year 1986.

Answer

The principal expenditures in this category are for furniture and fixtures, reduced from $37,500 in Fiscal 1986 to $7,500 in Fiscal 1987, and computer and word processing equipment, reduced from $60,000 in Fiscal 1986 to $12,000 in Fiscal 1987. Others are legal fees which are reduced from $25,000 to $10,000 on the theory that the initial costs for incorporation, rules and regulations, etc. will not be repeated. Similarly, the cost for evaluation is reduced from $25,000 to $20,000 because the time required to establish initial criteria and procedures should not be repeated. These reductions, which total $98,000, are the best measure of the one-time start-up costs although there will be other minor one-time costs associated with recruitment and relocation of personnel.

Question

How are you coping with the sequestration of $344,000 in 1986 as a reduction from your original appropriation Act.

Answer

The sequestration has had no measurable impact to date because the Institute has not begun operations and no funds have been obligated.

Question

Do you anticipate that you will have any unobligated balances carrying over at the end of fiscal year 1986 into 1987?

Answer

Because the budget for 1986 was planned for a 10 month period of operation certain administrative costs, particularly for rent and salaries, will certainly be reduced. The extent of these reductions will depend, of course, on the number of months remaining in the fiscal year after the board of directors is appointed. It still is our hope that the Institute can be quickly organized and that advance planning, together with a stepped-up schedule of board meetings, will permit obligation of most of the grant funds available in Fiscal 1986.

Questions Submitted by the Hon. George M. O'Brien

State Justice Institute

Question

In FY 1986, you submitted a budget request totalling $8,883,000. This committee provided a final appropriation of $8,000,000. What accounts for the increase in this year's budget in comparison to your request for FY 1986?

Answer

There are two reasons. First, the State Justice Institute, as a newly authorized agency, was not expected to have its board of directors appointed and sworn-in much before January 1, 1986. Thus, the Institute was not expected to be in operation for more than eight to 10 months in FY 1986 and the budget reflected this shorter working year. Second, the State Justice Institute Act anticipates that the Institute will require less money in its first year, while it is getting organized, than in the second and third years. Accordingly, the Act authorizes $13-million for the first year and increases the authorized amount to $15-million in FY 1987 and FY 1988. Thus, the 1987 budget request reflects administrative costs for the first full year of operation and an increase in the grant program commensurate with the increase in budget authority.

Question

I note in your budget request submission that you are requesting an appropriation despite the fact that a board of directors has yet to be appointed.

a) When do you expect the board to be appointed?

b) Do only board members have authority to approve grants?

c) What impact will further delays in the appointment of board members have on the Institute?

Answer

a) We are in the process of arranging a meeting with administration officials to discuss the board appointments and the future of the Institute. We have every reason to believe that the nominees were selected and their names cleared for submission to the Senate for confirmation by the first week of February. While we have had no official word from the White House it is apparent that the nominations have been withheld pending Congressional action on the proposed rescission of the Institute's funding for Fiscal 1986. It is our hope, of course, that the rescission will not be approved and that the names will be forwarded to the Senate no later than April 13 which, as we understand it, is the date on which the proposed rescission expires. We have been informed that the Senate Judiciary Committee will act expeditiously on the nominations.

b) Yes.

c) Further delay will, of course, make it more difficult to implement the Institute's legislative mandate. Operations cannot formally begin until the board of directors holds its first meeting and (1) selects a location for the Institute , (2) provides for its incorporation and the hiring of key personnel, (3) establishes program and funding priorities as required by the authorizing Act, and (4) publishes the required rules and regulations. The Conference of Chief Justices is doing all it can to expedite the organization of the Institute by preparing an initial agenda and developing all background materials necessary for speedy decisions on, and implementation of, the four steps above. Thus, we think operations can begin as soon as the board is sworn-in. But further delay, if it results in significant loss of the funds already provided for Fiscal 1986, could have long-term effects. This is because the initial authorization is for only three years and reauthorization will depend in part on an evaluations of the Institute's work to be made by the Attorney General. Given the lead-time necessary to process reauthorization legislation further delay will make it difficult to establish a solid track record before the reauthorization process begins. Thus, further delay will make it more difficult for Congress to assess the operations of the Institute and make the decisions necessary if the initial authorization is the be extended. Grant programs involving complex research, technical assistance, demonstration, and training programs often require considerable lead-time and implementation over a period of more than one year. It is for this reason that appropriations for such programs have been made with express provision that funds not expended in one fiscal year be retained for future obligation. Unfortunately, we were not advised on this point when making the Institute's budget request for Fiscal 1986 and did not include "no-year" language in the request. Accordingly, the appropriation Act requires that the grant funds be obligated in Fiscal 1986 and, unless amended, will not permit the funds to be carried over to 1987 as we had expected. With only a three-year authorization, loss of these funds would severely limit the Institute's ability to launch successful multi-year programs.

Question

Please describe some of the projects you intend to support this year?

Answer

We do not wish to appear evasive but must note that the Conference of Chief Justices, while doing what it can to help get the Institute organized, has no standing under law to make policy decisions for the Institute. We have many ideas, of course, about the kinds of programs we would like to see supported. But the State Justice Institute Act, as noted above, gives the board of directors sole authority to set program policy and funding priorities. We think it would be inappropriate for the Conference to take any action that would have the appearance of preempting the board's authority or committing it to spcific program policy decisions. Our prepared statement discusses some of the national issues of state-federal judicial concern that we think important. But we cannot speak to the manner in which the Institute's board may wish to deal with them.

Question

Under the Programs Division, you are requesting salaries and expenses for three program monitors. Briefly describe the duties of a program monitor and your reasons for requesting three within this activity.

Answer

Program monitors perform functions essential to a grant making agency and are required by the State Justice Institute Act. They assist the program director in reviewing grant applications for substance and for compliance with agency rules and specific program requirements. After grants are made they serve as liaison between the agency and individual grantees, monitoring their activities to assure compliance with timetables and other terms of the grant. In short, they perform an important quality control function.

Question

Your FY 1987 operating budget reflects a total cost of $40,000 to cover 4 meetings for the Board of Directors. Please provide for the record a detailed breakout of those costs. Does this request include travel costs?

Answer

The State Justice Institute Act requires the 11-member board of directors to meet quarterly with special meetings to be called as meeded by the chairman. Assuming a minimum of four two-day meetings this would mean an expenditure of approximately $900 per member per meeting, including travel costs, or $450 per day. If five meetings are held the allocation would be $727 per member, including travel, or $363 per day. This assumes meeting will be held at the Institute's headquarters and that there will be no travel expenses for staff. Because board members will be located in all parts of the country it is not possible to make a precise allocation between travel, room, meals, and miscellaneous expenses, nor course is it possible to predict precisely the number of meetings that will be required. The projected costs are, therefore, somewhat speculative. Still, we believe the overall total, on average, will approximate standards costs under federal travel and per diem We also expect that the board of directors, once appointed, will make some reallocations within the administrative budget to meet the actual conditions they face.

Question

You are requesting $20,000 for evaluation. What exactly is meant by "evaluation" and what does that cost entail?

Answer

As noted above the State Justice Institute Act requires the Institute to "monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part ... to assure that the provisions of this title, the bylaws or the Institute, and the applicable rules, regulations, and guidelines and rules promulgated ... are carried out." Thus, the sum provided would pay for the services of an expert consultant who would oversee the operations of the Institute, collecting data and establishing criteria to judge its performance. If the program monitors can be characterized as exercising quality control over the Institute's grantees, the evaluator can be characterized as a quality control expert for the Institute itself.

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WEDNESDAY, FEBRUARY 19, 1986.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

WITNESSES

MARK CANNON, STAFF DIRECTOR, COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

HON. LINDY (MRS. HALE) BOGGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA AND MEMBER, COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

OPENING STATEMENT

Mr. SMITH. The next item for the fiscal '87 budget request is the Commission on the Bicentennial of the United States Constitution. The fiscal '87 budget request is for $12 million, and that represents a decrease of $226,000 from the adjusted 1986 appropriation. The 1986 sequestration reduction was $549,000.

At this point we'll insert the justifications in the record.

[Material referred to follows:]

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

APPROPRIATION REQUEST FOR FISCAL 1987

Submission to the Congress

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

Introduction

This is the first budget submission of the Commission to the Congress. On the following pages appear the tables of budget estimates and the brief statements justifying each of the Object Classifications in the requested appropriation for Fiscal 1987. Also included are selected pieces of general information relevant to the Commission and its purposes that may be useful to the Congress.

The Commission will be pleased to supply further information, as requested, prior to the appropriation hearing date or at any other time. For any questions, please contact the Commission's General Counsel, Joseph B. McGrath, and its Acting Director of Administration, John Kelley. Both can be reached at the Commission offices on Jackson Place, N.W., Tel. (202) USA-1787.

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February 10, 1986

STATEMENT OF THE STAFF DIRECTOR
FEBRUARY 19, 1986
United States Capitol Room H-310

Mr. Chairman and Members of the Subcommittee:

I am Dr. Mark Cannon, Staff Director for the Commission on the Bicentennial of the United States Constitution. On behalf of the Chief Justice, who serves as Chairman of the Commission, and the members of the Commission, I would like to thank you for this early opportunity to testify concerning the appropriations we will require to carry out in greater measure our congressional mandate to coordinate and stimulate a meaningful commemoration of the Constitution.

We are a Nation cut off from our heritage. America's preoccupation with the immediate, the "here and now," can cause us to forfeit the benefits of the lessons of history. Few Americans are knowledgeable about our Founding. Yet what happened two centuries ago is critically important:

our Founders created for the first time in history a government that can act decisively, but is restrained from using its power to subjugate the citizenry. America's Founding represents the greatest leap forward for freedom in human history. Unfortunately, that story is largely taken for granted. It is not being told. As Santayana remarked concerning historic mistakes: "Those who cannot remember the past are condemned to repeat it."

James Billington, Director of the Woodrow Wilson Center for International Scholars, has said: "[I]t was the combination of spiritual, moral and civic concerns with exacting intellectual activity that really built this country and made democracy work on a continental scale." If as a Nation we were better aware of how the Founders built constitutional democracy, better aware of the kinds of knowledge we need to safeguard it, the prospects for our future would be brightened.

A similar warning has been sounded by Ernest L. Boyer, former U.S. Commissioner of Education and President of the Carnegie Foundation for the Advancement of Teaching, who said: "Unless we find better ways to educate ourselves as citizens, we run the risk of drifting unwittingly into a new kind of Dark Age." After all, according to Mr. Boyer, "In a world where human survival is at stake, ignorance is not an acceptable alternative."

Yet what we are left with is just that--ignorance about how our own system of constitutional governance came into being and operates today.

The facts illustrate this:

* A 1979 Gallup Poll showed that 76 percent of American adults did not know what the First Amendment dealt with.

* A 1983 article in U.S. News & World Report stressed that one-fourth of 17-year-olds thought it illegal to start a new political party. Nearly half of them could not name their own United States Representative or Senators, and 40

percent thought the President could declare an Act of Congress unconstitutional.

* A national survey released in 1983 by The Hearst Corporation revealed that fully 40 percent of Americans did not know that federal judges were appointed for life.

* Preliminary findings released in October of a study by the National Assessment of Educational Progress showed that two-thirds of 17-year-old students could not place the Civil War in the correct half-century; one-third did not know that the Declaration of Independence was signed between 1750 and 1800; and one-half of high school seniors did not recognize the names of Winston Churchill or Joseph Stalin.

Furthermore, surveys taken during the 1970's indicated a decline in young people's already deficient knowledge about the Constitution. It is necessary to educate anew every generation about our constitutional system. Alberta Siegel, a psychologist at Stanford University, has written: "Every civilization is only twenty years away from barbarism. For twenty years is all we have to accomplish the task of civilizing the infants...who know nothing of our language, our culture, our religion, our values, or our customs of interpersonal relations."

Why is it important to remedy this deficency in our Nation's civic understanding? The novel concepts of governance embodied in our Constitution--separation of powers, checks and balances, federalism, and the rule of law, for instance--are largely concepts of decentralization. This places upon Americans an enormous responsibility for a system of governance that is at once energetic and limited. Americans--particularly young Americans, who are tomorrow's leaders--should be aware of the creation and heritage of the Constitution, because that awareness is their responsibility under the Constitution. That knowledge may also be essential to sustain the Constitution, with its cornucopia of benefits of freedom and creativity, for centuries to come.

Because so much of our political decision-making rests with the citizenry, it is often difficult to plan ahead. Planning ahead, however, is the key to progress based on vision, goals and the sacrifice of today's enjoyment for greater future benefit. That is why citizen awareness, not only of constitutional rights but also of constitutional responsibilities, is necessary for all of us to think about, prepare for, and protect the future.

History is rife with stories of nations and civilizations whose eclipses can be traced to complacency about sustaining the causes of their success. The English historian Arnold Toynbee, for instance, delineated 19 such civilizations.

Egyptian culture, for example, glittered like a diamond in the desert only to be drifted over by the sands of time. Rome dominated the world until internal decay made her easy prey.

In 1578, Spain was seen as the world's most powerful nation. However, laggardness in entering the new world of empirical science and technology in agriculture, manufacturing and banking resulted in Spain's being permanently sidelined as a world power within a half-century.

More recently, nineteenth-century England, which had initiated the Industrial Revolution, was overtaken by ambitious late starters. It is not difficult to imagine that this same complacency could one day overtake our thus-far successful experiment in constitutional governance. The upcoming Bicentennial can foster the vigilance America needs.

Indeed, the opportunity that the approaching Bicentennial observance presents is unique. The successful realization of our mission will involve the entire Nation in a rededication to the principles and values of the Constitution. This Bicentennial represents our best chance to spawn a widespread renewal of commitment to the civic virtue that our Founders exemplified.

In light of this mission, the Commission on the Bicentennial has developed an approach to stimulate, promote, help develop, guide and coordinate myriad activities through which all Americans will attain a greater awareness, knowledge, understanding and appreciation of the Constitution. The Commission will plan its commemorative activities and programs around three general themes tied to the central Bicentennial years through 1989:

1987: "Framing the Constitution." The years 1986 and 1987 will be dedicated to commemorating the events leading up to the Constitutional Convention in Philadelphia in the summer of 1787, and to the Founders' work in writing the Constitution. The highlight will be the 200th anniversary of the signing of the Constitution by the delegates in Philadelphia, on September 17, 1987.

1988: "Ratifying the Constitution: The People Consent." The theme for 1988 will be the great national debate and the votes that took place--some by very narrow margins--during the State ratifying conventions in 1788, including the publication in New York City (and elsewhere) of The Federalist papers. The climax, of course, was the ratification by New Hampshire, Virginia, and New York (by three votes) in June and July of 1788, and the selection by the Continental Congress on September 13, 1788, of New York City as the site for the new federal government.

1989: "Establishing a Government Under the Constitution." In 1989, the commemoration will mark the 200th anniversary of the First Congress, the inauguration of George Washington as the first President, the establishment of the first Executive Departments, and the creation of the federal Judiciary. 1989 will also mark the Bicentennial of the passage by Congress of the constitutional amendments which became our Bill of Rights. The commemoration will deal with the development over 200 years of all three branches of Government and of our constitutional history.

To date, the full Commission has met five times to begin its work, and already there are many accomplishments to report.

The Commission is urging the formation and activity of State Bicentennial commissions or committees. To date, some 22 State committees have been organized, and others are in the process of being organized. The Commission has approved a resolution providing for regional designation of Commission members by geographic area to provide more personal attention by the Commission to activities throughout the Nation.

Our Chairman, Chief Justice Warren E. Burger, has sent a letter to some 835 mayors inviting them to get involved in the upcoming Bicentennial commemoration. The Commission has drafted a generic legislative bill, an executive order, a proclamation and a resolution for use by the States, cities, counties, and private organizations in their efforts to get organized.

To illustrate to other nations the benefits of constitutionalism, the Commission will soon sponsor an international meeting in Washington on the Bicentennial with key persons in and out of government who are interested and active in promoting observance of the Bicentennial in other nations.

Commission members and staff have met with all three commercial television networks and PBS; all have expressed considerable interest in participating in the Bicentennial. The Commission has approved in concept a live, special television production by CBS to include the heads of all three branches of government. The program would take place on September 13, 1987, and originate from a fitting location, probably Washington, D.C.

The Commission is also working on a National Bicentennial Essay Contest for high school (and possibly junior high school) students, as well as an essay contest for law school students. Given the widely recognized need for students to improve their writing as well as their understanding of their heritage, we hope that many teachers will assign entire classes to write on this topic.

The Commission has given official recognition to the Center for Civic Education's conference on Constitutional Government and the Development of an Enlightened Citizenry. The conference will include some 15 educators from the Federal Republic of Germany and 5 participants from other European countries and will be held March 31 through April 5, 1986. This international conference is intended to disseminate abroad not only a better understanding of American governmental institutions, but also an understanding of the most exemplary programs for teaching citizenship to young people. The American participants will all be experienced educators in the area of civic education.

Finally, two private organizations that are attempting to develop musical and quiz competitions for the high schools related to themes about the Constitution have been voted by the Commission to receive letters of encouragement.

In addition to these substantive accomplishments connected with promotion of the Bicentennial celebration around the Nation, the Commission and its staff have attended to the institutional tasks necessary to the Commission's work.

Aside from establishing its own committees to focus its work, the Commission has approved the design of the official Bicentennial logo; approved guidelines for the use of the logo; approved and produced a Bicentennial Events Calendar; published two issues of its newsletter; approved the designation of an official seal; assembled speech resource materials for use by Commission members and others; and agreed to contract with the Capitol Historical Society for their production of "an official medal of the Bicentennial."

The Commission staff also has been working on establishing the organization necessary to carry out its functions and to fulfill the Commission's goals. As recently as early December, our personnel included 4 employees paid from appropriated funds, 7 employees detailed from other federal agencies, and some volunteers. Thanks to the House, the Senate and the President, on December 19 the Commission received a major appropriation. As a result, we now have 16 employees and 10 detailees, and we are growing at a brisk pace, but carefully. In addition, the staff has established accommodations by finding working space until its designated quarters at 600 E Street are available, and by acquiring word processing equipment, furniture, copying equipment, a telephone system, and other needed materials.

Finally, the staff has made progress in disseminating regulations providing for use of the official logo.

In sum, then, the Commission has established itself as a working agency and has embarked in significant ways upon its mission. In the short time that has elapsed since its first meeting on July 29, 1985, and since its first appropriation of significant funding in December, the

Commission has recruited staff; obtained its headquarters and other space; acquired furnishings for its offices; written, published, and disseminated many thousands of copies of its First Report; developed its mailing list; published and widely disseminated two issues of its newsletter; set up a filing system; responded to many hundreds of inquiries by phone and letter; organized the Commission into committees; held five Commission meetings; approved several major events for celebrating the Bicentennial; and provided official recognition to several private activities. It is clear, therefore, that the Commission has brought itself into full operation and has made substantial progress in undertaking to fulfill its mandate prescribed by Congress--to "promote and coordinate activities to commemorate the [B]icentennial of the Constitution."

Our resources are very limited for the vast amount to be done. By contrast, in today's dollars, Federal appropriations for the Bicentennial of the Declaration of Independence exceeded 200 million dollars. If you add the proceeds of royalties from the logo and sales of the Commission's and Administration's own medals, the amount reaches $250 million. Neither of these sources of income is legally available to our Commission under existing legislation. Consequently, we plan to use our staff heavily to stimulate, encourage and promote educational activity about the Constitution among private organizations as well as Federal, State and local agencies.

We find that because of the complexity of meaningful commemorative activities about the Constitution, contact and communication--even when effective--take an extraordinarily long time.

For example, there have been well over 500 letters, phone calls and meetings with Governors' offices in recent months, yet still fewer than half of the States have official organizations.

As another example, we have worked with a national trade association whose annual convention is attended by some 50,000 people. Last month they passed a resolution making them actively involved in commemorating the Bicentennial of the Constitution; they plan to present a program on the Constitution at their next annual meeting. We have held two meetings with Federal departments & agencies to encourage them to start developing Bicentennial programs and have developed an inventory of Federal programs planned to date. We also have completed planning for our first major meetings with private sector organizations. These meetings will include over 600 private sector organizations. The question will be how to formulate and shape that program to make it highly interesting to that audience. We are working with many other groups and find that it takes considerable time to help formulate activities for their own organizations or agencies.

This time is well spent, however, our Commission members and staff are thereby able to serve as matches that ignite much larger fires.

The Chairman recently sent a letter to nearly 300 Symphony Orchestras throughout the United States, encouraging them to plan at least one Bicentennial concert during 1987.

To be able to plan our activities for the four-year commemorative period ahead, we need all of the $12 million in the President's budget; to ignite many fires of learning about and love for the Constitution among many groups comprising "We the People," we need the full appropriation.

Please bear in mind that of the three recent celebrations, the Bicentennial of the Declaration of Independence, the Centennial of the Statue of Liberty and the Bicentennial of the Constitution, the last commemoration is arguably the most significant. Yet even given the full appropriation in the President's budget, the Bicentennial commemoration of the Constitution may risk being only about one-tenth as well-financed as the other two.

Nevertheless, I can give my personal conviction and assurance that with the full appropriation, the Bicentennial Commission will ignite enough fires that as much or more learning will take place about the subject being commemorated as in any previous commemoration in our history. By your full support, you can make that happen.

COMMISSION ON THE BICENTENNIAL OF THE
UNITED STATES CONSTITUTION

General Statement of Goals and Objectives

The Commission was established by Public Law 98-101 (97 Stat. 719) for the purpose of promoting and coordinating the bicentennial of the constitution and the beginnings of the Federal Government. A brief summary of the goals and objectives of the Commission follows. The Commission is mandated to -

- Plan and develop activities appropriate to commemorate the Bicentennial of the Constitution, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;
- Encourage private organizations, and state and local governments to organize and participate in Bicentennial activities commemorating or examining the drafting, ratification, and history of the Constitution and the specific features of the document;
- Coordinate, generally, activities throughout all of the States; and
- Serve as a clearing-house for the collection and dissemination of information about Bicentennial events and plans.

Additionally, the Commission has been charged to give due consideration to:

- The historical setting in which the Constitution was developed and ratified, including such antecedents as the Federalist Papers, the Articles of Confederation, and the ratification debates in the States;
- The contribution of diverse ethnic and racial groups;
- The relationship and historical development of the three branches of the government;
- The importance of activities concerning the Constitution and citizenship education throughout all of the States regardless of when each State achieved statehood;
- The unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings;
- The diverse legal and philosophical views regarding the Constitution;
- the need for reflection upon both academic and scholarly views of the Constitution and the principle that the document must be understood by the general public;
- The substantive provisions of the Constitution itself;
- The impact of the Constitution on American life and government

- The need to encourage appropriate educational curricula designed to educate students at all levels of learning on the drafting, ratification, and history of the Constitution and the specific provisions of that document; and
- The significance of the principles and institutions of the Constitution to other nations and their citizens.

The Commission is comprised of twenty-three members, including the Chief Justice of the United States, who has been appointed Chairman; the President Pro Tempore of the Senate and the Speaker of the House of Representatives, or their respective designees; and twenty members appointed by the President. Twelve of these were nominated by the Speaker, the President Pro Tempore of the Senate and the Chief Justice.

The law creating the Commission, Public Law 98-101 (97 Stat. 719), was signed on September 29, 1983. Most Commission members were designated on June 25, 1985. The Commission met for the first time on July 28-29, 1985 and a Staff Director was selected during a subsequent meeting on August 22-23, 1985. The Commission has held three further meetings, on September 17 and November 22-23, 1985, and February 2-3, 1986. It is now in process of developing and implementing the goals and objectives stated above.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

Summary
Salaries And Expenses

In the President's Budget for Fiscal Year 1987, a total of $12,000,000 is requested for the Commission for salaries and expenses, and this amount is to remain available until expended. The appropriations are authorized under section 8 of the statute creating the Commission, Public Law 98-101 (97 Stat. 719-723).

Previously, the Commission received an appropriation of $12,000,000 under section 111 (a) of Pubic Law 99-100, making further continuing appropriations for Fiscal Year 1986, signed by the President on December 19, 1985. As with the present budget request, the funds appropriated in the Continuing Resolution are to remain available until expended ("No-year" money).

Also, in September 1985, the Commission received $331,000 in an initial appropriation approved in the Second Supplemental Appropriation Act for Fiscal 1985. A further appropriation for the Commission of $775,000 was approved in the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act of 1986, Public Law 99-180, signed by the President on December 13, 1985. The following Tables 1-5 are taken from the President's Budget Summary.

58-651 O - 86 - 4

Table 1. PROGRAM and FINANCING

Identification Code 76-0054-0-1-806		1985 actual	1986 estimated	1987 estimated
Program by activities:				
10.00	Total Obligation	$11,000	$13,095,000	$12,000,000
Financing:				
21.40	Unobligated balance available, start of year	0	-320,000	0
24.40	Unobligated balance available, end of year	320,000	0	0
40.00	Budget Authority (appropriation):	$331,000	$12,775,000	$12,000,000
Relation of obligations to outlays:				
71.00	Obligations incurred, net	$11,000	$13,095,000	$12,000,000
72.40	Obligated balance, start of year	0	11,000	6,387,000
74.40	Obligated balance, end of year	-11,000	-6,387,000	-6,000,000
90.00	Outlays:	0	$ 6,719,000	$12,387,000

Table 2. SUMMARY OF BUDGET AUTHORITY AND OUTLAYS

Identification Code 76-0054-0-1-806	1985 actual	1986 estimated	1987 estimated
Enacted/Request:			
Budget Authority	$331,000	$12,775,000	$12,000,000
Outlays	0	6,719,000	12,387,000
Reduction Pursuant to Pub. L. 99-177:			
Budget Authority	0	-549,000	0
Outlays	0	-275,000	-274,000
Total:			
Budget authority	$331,000	$12,226,000	$12,000,000
Outlays	0	6,444,000	12,113,000

Table 3. OBJECT CLASSIFICATION

Identification Code 76-0054-0-1-806		1985 actual	1986 estimated	1987 estimated
11.1	Personnel compensation: Full-time permanent	0	$3,775,000	$4,370,000
12.1	Personnel benefits: Civilian	0	500,000	570,000
21.0	Travel and transportation persons	$ 2,000	1,100,000	1,300,000
22.0	Transportation of things	9,000	20,000	30,000
23.3	Communications, utilities, and miscellaneous charges	0	300,000	420,000
24.0	Printing and reproduction	0	1,000,000	1,200,000
25.0	Other services	0	5,000,000	3,500,000
26.0	Supplies and materials	0	100,000	210,000
31.0	Equipment	0	1,300,000	400,000
99.9	Total Obligations:	$11,000	$13,095,000	$12,000,000

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Table 4. REDUCTION PURSUANT TO PUBLIC LAW 99-177*

Identification Code 76-0054-6-1-806		1985 actual	1986 estimate	1987 estimate
	Program by activities:			
10.00	Total obligations	0	$-549,000	0
	Financing:			
40.00	Budget Authority (appropriation):	0	-549,000	0
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	0	$-549,000	0
72.40	Obligated balance, start of year	0	0	$-274,000
74.40	Obligated balance, end of year	0	274,000	0
90.0	Outlays	0	$-275,000	$-274,000

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*These reductions are required by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177).

Table 5. PERSONNEL SUMMARY*

Identification Code 76-0054-0-1-806	1985 actual	1986 estimate	1987 estimate
Total number of full-time permanent positions	6	83	100
Total compensable workyears: Full-time equivalent employment	0	83	100

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*For Detail of Permanent Positions,, see following Table No. 6.

[illegible]

STANDARD FORM 306
July 1966, Bureau of the Budget
Circular No. A-11, Revised

TABLE NO. 6

COMMISSION ON THE BICENTENNIAL OF THE UNITED
STATES CONSTITUTION

DETAIL OF PERMANENT POSITIONS

Identification Code 76-0054-0-1-806		1985 ACTUAL	1986 ESTIMATE	1987 ESTIMATE
EXECUTIVE LEVEL 1		1	1	1
(Equivalent to)	GS-18	5	1	1
	GS-17	-	-	-
	GS-16	-	5	5
	GS-15	-	7	7
	GS-14	-	7	7
	GS-13	-	8	8
	GS-12	-	18	18
	GS-11	-	11	15
	GS-10	-	-	-
	GS-9	-	9	15
	GS-8	-	-	-
	GS-7	-	16	23
TOTAL		6	83	100

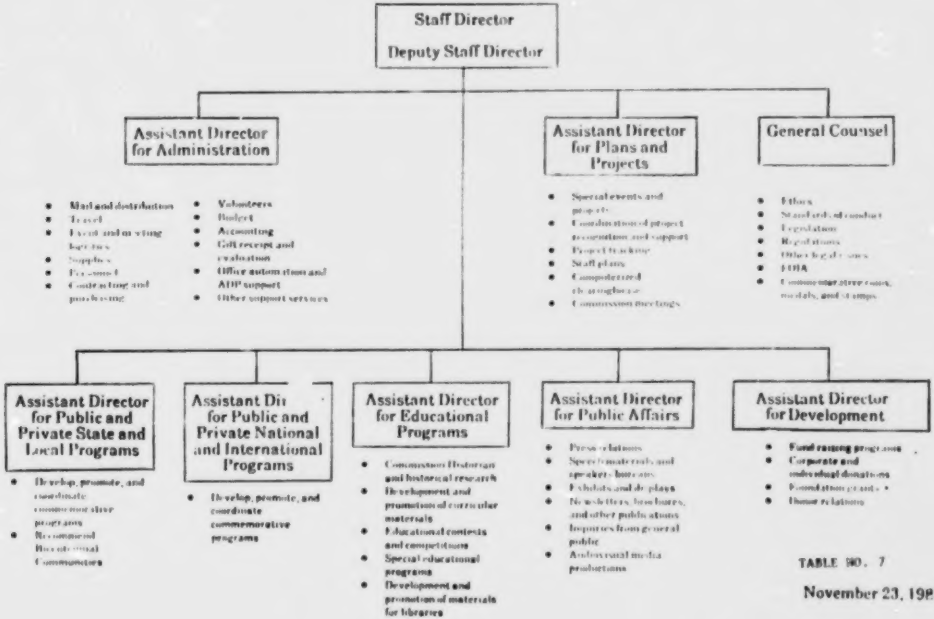
FEBRUARY 1986

[illegible] [illegible] [illegible] [illegible]

TABLE NO. 7

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

ORGANIZATIONAL CHART
(TENTATIVE)



Staff Director
Deputy Staff Director

Assistant Director for Administration
- Mail and distribution
- Travel
- Event and meeting logistics
- Supplies
- Personnel
- Contracting and purchasing
- Volunteers
- Budget
- Accounting
- Gift receipt and evaluation
- Office automation and ADP support
- Other support services

Assistant Director for Plans and Projects
- Special events and projects
- Coordination of project recognition and support
- Project tracking
- Staff plans
- Computerized clearinghouse
- Commission meetings

General Counsel
- Ethics
- Standards of conduct
- Legislation
- Regulations
- Other legal issues
- FOIA
- Commemorative coins, medals, and stamps

Assistant Director for Public and Private State and Local Programs
- Develop, promote, and coordinate commemorative programs
- Recommend Bicentennial Communities

Assistant Di for Public and Private National and International Programs
- Develop, promote, and coordinate commemorative programs

Assistant Director for Educational Programs
- Commission Historian and historical research
- Development and promotion of curricular materials
- Educational contests and competitions
- Special educational programs
- Development and promotion of materials for libraries

Assistant Director for Public Affairs
- Press relations
- Speech materials and speakers bureaus
- Exhibits and displays
- Newsletters, brochures, and other publications
- Inquiries from general public
- Audiovisual media productions

Assistant Director for Development
- Fund raising programs
- Corporate and individual donations
- Foundation grants
- Donor relations

TABLE NO. 7

November 23, 1985

99

SUMMARY - OBJECT CLASSIFICATIONS

The following pages set forth brief explanations on the specific object classifications to be found listed on Table No. 3. Each is on a separate, following page.

Code 11.1 Personnel compensation: Full time permanent.

Fiscal 1985 (actual)	Fiscal 1986 (estimate)	Fiscal 1987 (estimate)
0	$3,775,000	$4,370,000

This classification is of the gross compensation for salaries for a budget request of 100 full time, permanent positions. These are employees paid with appropriated funds and hired under sections 5 (a) and (b) of Pub. L. 98-101 (97 Stat. 720), the statute creating the Commission. The budget amounts do not include compensation of employees detailed to the Commission from other Federal agencies under the authority of section 5 (e) of Pub. L. 98-101 (97 Stat. 720), whose service is nonreimbursable. Nor do they cover employees who may be paid from donated funds under section 5(c) of the referenced statute. Also, of course, the budget amounts do not include volunteers serving on the staff of the Commission without compensation.

Summary - Object Classifications (continued)

Code

12.1 Personnel benefits: Civilian.

Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
$500,000	$570,000

*Note: No benefits were paid in Fiscal 1985.

The above amounts were figured at thirteen percentum (13%) of the compensation figures.

Summary - Object Classifications (continued)

Code

22.0 Travel and transportation of persons.

Fiscal 1985 (actual)	Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
$2,000	$1,100,000	$1,300,000

Commission members serve without compensation but are authorized to be reimbursed for travel, subsistence, and other necessary expenses incurred by them in performance of their duties. Section 5 (d), Pub. L. 98-101 (97 Stat. 720). In addition the statute and its legislative history mandates the Commission to assure that the commemoration of the bicentennial of the Constitution is celebrated throughout all of the States, regardless of when each State achieved statehood. Section 6 (b) (4), Pub. L. 98-101 (97 Stat. 722).

As a result, the Commission has met in Washington, D.C., Salt Lake City and San Diego, and may meet from time to time in various locations in the United States. In addition, it is expected that there will be subcommittee meetings and hearings in different regions of the country, as well as at the locale of important Constitution-related commemorations (such as Annapolis in 1985, Philadelphia in 1987, Boston in 1988, and New York in 1989). Note: the Commission has already agreed to meet in Annapolis on September 12-13, 1986 as part of Maryland's 200th Anniversary of the Annapolis Convention.

This classification covers transporation costs incurred by all Commission employees as well as Commission members, representatives of Commission members, and, at times, guests invited by the Commission. It covers their travel costs, per diem or subsistence allowance and related miscellaneous costs. Included in the types of travel are the following: Commission meetings, committee meetings and hearings, program-related travel by Commission staff, invitational travel, local travel costs, and travel to Constitution-related events and programs, and to assist State and local bicentennial commissions.

International travel is also included both for the Commission and for invitational guests from abroad. The statute directs the Commission, in planning and implementing appropriate activities to commemorate the bicentennial, to give "due consideration to the significance of the principles and institutions of the Constitution to other nations and their citizens." Section 6 (b) (11), Pub. L. 98-101 (97 Stat. 722).

Summary - Object Classifications (continued)

Code	Transportation of Things		
22.0	Fiscal 1985 (actual)	Fiscal 1986 (estimate)	Fiscal 1987 (estimate)
	$9,000	$20,000	$30,000

This classification covers expenses for the transportation or movement of materials, furniture, office equipment, employee household goods, Commission exhibits, displays, meeting materials, parcel post, express deliveries, etc. Because the Commission has had difficulty in obtaining adequate office space for its staff in Washington, D.C., it is anticipated there will be one or more major office moves in fiscal 1986 before all staff will be located in a single permanent headquarters. In addition, it is expected that during both Fiscal 1986 and 1987 there will be a variety of historical displays prepared and shipped throughout the country for use at State and local commemorative activities.

Summary - Object Classification (continued)

Code	Communications, Utilities, and Miscellaneous Charges		
22.3	Fiscal 1985 (actual)	Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
	0	$300,000	$420,000

This classification covers the cost and expenses for basic services supplied to or used by the Commission. It includes such costs as the following.

> Telephone services; telecommunications, including data transmissions and telegraph; postage; temporary rental of furniture and equipment; messenger service; copying services; special utility user charges, and other required operating costs of a similar mature.

Note: The General Services Administration has waived Standard Level User Charges (SLUC) for space occupied by the Commission. Accordingly, the budget estimates set forth above do not include amounts to pay SLUC charges.

Summary - Object Classifications (continued)

Code	Printing and Reproduction		
24.0	Fiscal 1985 (actual)	Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
	0	$1,000,000	$1,200,000

This classification covers the costs and expenses for the printing, publication and reproduction activities which will enable the Commission to carry out its principal purpose and duties: to promote and coordinate activities to commemorate the bicentennial of the Constitution, and to serve as a clearinghouse for the collection and dissemination of information about bicentennial events and plans. Sections 3 and 6(a), Pub. L 98-101 (97 Stat. 719, 721).

To accomplish these objectives, the Commission plans the development, printing, publication and distribution of newsletters, brochures, poster, calendars, copies of the Constitution, booklets, pamphlets, books, plays, musical pieces and other documentary materials that will enhance the bicentennial of the Constitution, the First Congress and the formation of the Federal Government and Judiciary, and passage of the Bill of Rights. (See Appendix for example of newsletter.) Many of these documents and materials, also, will be unique, creative in design and of commerorative quality, which is likely to make their costs higher than usual for Government printed materials.

Additionally, the Commission will incur the normal administrative expenses of any Federal agency, i.e., printing of stationery and envelopes, publication of proposed and final regulations, preparation, printing and distribution of reports, etc. However, as interest in the

Summary - Object Classification (continued)

24.0

bicentennial develops throughout the country during 1986, 1987 and 1988, the demand for the Commission's Constitutional publications is expected to increase dramatically.

Summary - Object Classifications (continued)

Code	Other Services		
25.0	Fiscal 1985 (actual)	Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
	0	$5,000.000	$3,500,000

This classification covers expenses in two general categories: expenditures related directly to the operational headquarters and field work of the Commission, and expenditures necessary to carry out the purposes, programs and projects of the Commission. The bulk of the estimated expenditures will be in the latter category.

Operational Expenditures

These expenses include anticipated costs for office alterations and renovations, maintenance and storage of equipment, fees for meetings and conferences, rental of display and conference space, field work and expenses for major anniversary celebrations (such as in Philadelphia in 1987 or New York in 1989).

Programs and Projects

These expenses cover contracts for materials and services to plan, develop and help implement activities appropriate to commemorate the bicentennial of the Constitution, the beginnings of our Federal Government and passage of the Bill of Rights, in 1987, 1988 and 1989.

This includes stimulation and promotion of a limited number of major projects, some to be undertaken by the Commission on behalf of the Federal Government, to increase citizen awareness of the Constitution, its history, its importance and its relevance to America today.

Summary - Object Classification (continued)

25.0

Examples could include various types of scholarly projects and programs, conferences, films, display exhibits, ceremonies, art works, musical pieces, essay contests, educational competitions, awards, teacher-student materials, memorials to the signers of the Constitution, and programs to enhance the documentary history of the Constitutional period.

Important to a consideration of the expenditures to be covered in the above budget estimates is that the amounts must cover Commission expenses through calendar 1989. Thus, the expenditures will relate to significant commemorative events taking place not only in Fiscal 1987, but also during Fiscal 1988 and 1989. These latter include, for example, commemoration of the Constitutional debates and State ratification conventions in 1788 and 1789, the publication of The Federalist papers in 1788, the election of the First Congress in 1789, the election of President Washington and Vice President Adams, and the first Inauguration in 1789, passage of the Bill of Rights, creation of the Executive departments and passage of the Judiciary Act of 1789.

Summary - Object Classifications (continued)

Code	Supplies and Materials		
26.0	Fiscal 1985 (actual)	Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
	0	$100,000	$210,000

This classification covers expenses for the purchase of office supplies (not equipment), automatic data processing supplies (ADP), supplies for meetings, etc. All of these must be purchased anew, since the Commission has no stock of supplies. In addition, the supplies need is expected to escalate steadily during Fiscal 1986 through Fiscal 1987 and beyond, as the country discovers the existence of the Commission and becomes involved in the 200th anniversary of the Constitution and the beginning of the Federal Government.

Summary - Object Classifications (continued)

Code	Equipment		
31.0	Fiscal 1985 (actual)	Fiscal 1986 (estimated)	Fiscal 1987 (estimated)
	0	$1,300.000	$400,000

This category covers expenses for the purchase of personal property for use by the Commission. (Leasing of equipment is covered under Communications, utilities and miscellaneous charges). This personal property is the office equipment for the use and service of all of the Commission's employees (including those paid with donated funds, volunteers serving without compensation, employees detailed and those on the Commission's appropriated funds payroll).

The Commission has to equip itself from scratch. This will be done largely during Fiscal 1986 and Fiscal 1987. Categories of equipment under this classification include but are not limited to the following:

> Computers, printers, work-stations; desks, tables, chairs, conference room equipment; bookcases, coatracks, filing equipment and cabinets; duplicating equipment; cameras, TV-radio equipment, video machines; drafting and visual display materials; typewriters, calculators, dictation equipment, postage meters, scales, mailing and binding equipment, and both telephones and telecommunications equipment.

Most of the above equipment generally will be purchased through two sources: (1) from the excess equipment of other Government agencies, if located on excess equipment lists and in usable condition; and, (2) through equipment contract schedules awarded by the General Services

Administration. When needed equipment is not available from these two sources, the Commission will procure the equipment using standard Government contracting and purchase procedures.

One further source of equipment is available to the Commission: it is empowered to solicit, receive and use donated property. To the extent such property donations of usable equipment are made in a timely manner during Fiscal 1986 and Fiscal 1987, the capacity of the Commission would be expanded, and the burden on appropriated funds will be lessened.

The equipment purchased with the above requested appropriation, by and large, should last throughout the life of the Commission (currently, four years - to December 31, 1989). There will, of course, be repairs, replacements, etc., but it is anticipated that all major equipment should be on hand, at the latest, by the end of the second quarter of Fiscal 1987.

Public Law 98-101
98th Congress

An Act

To provide for the establishment of a Commission on the Bicentennial of the Constitution.

Sept. 29, 1983
[S. 118]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established a Commission on the Bicentennial of the United States Constitution, hereinafter referred to as the "Commission".

Commission on the Bicentennial of the Constitution.
Establishment.

FINDINGS

SEC. 2. The Congress finds that—

(1) the bicentennial of the Constitutional Convention's adoption of the Constitution occurs on September 17, 1987;

(2) the Constitution enunciates the limitations on government, the inalienable rights, and the timeless principles of individual liberty and responsibility, and equality before law, for the people of the United States of America;

(3) this document has set an enduring example of representative democracy for the world; and

(4) the maintenance of the common principles that animate our Republic depend upon a knowledge and understanding of their roots and origins.

PURPOSE

SEC. 3. It is the purpose of this Act to establish a Commission to promote and coordinate activities to commemorate the bicentennial of the Constitution.

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of twenty-three members as follows:

(1) twenty members appointed by the President, four of whom shall be appointed from among the recommendations made by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives), four of whom shall be appointed from among the recommendations made by the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate, and four of whom shall be appointed from among the recommendations made by the Chief Justice of the United States;

(2) the Chief Justice of the United States, or his designee;

(3) the President pro tempore of the Senate, or his designee; and

(4) the Speaker of the House of Representatives, or his designee.

(b) Each of the individuals making recommendations to the President regarding appointments shall seek to achieve a balanced membership representing, to the maximum extent practicable, the Nation as a whole. The Commission members shall be chosen from among individuals who have demonstrated scholarship, a strong sense of public service, expertise in the learned professions, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(c) Members of the Commission shall be appointed for the life of the Commission.

(d) One of the members shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

(e) Twelve members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

Vacancy.

(f) A vacancy in the Commission resulting from the death or resignation of a member shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

ADMINISTRATIVE PROVISIONS AND POWERS

Pay rate.

SEC. 5. (a) The Commission shall appoint a staff director who shall be paid at a rate not to exceed the rate of basic pay provided for level I of the Executive Schedule pursuant to section 5312 of title 5, United States Code.

5 USC 5101 *et seq.*
5 USC 5331.

(b) The Commission is authorized to appoint and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of such additional publicly paid personnel ~~up to five persons,~~ as the Chairman finds necessary to carry out the purposes of this title. Such personnel shall be compensated at a rate not to exceed a rate equal to the maximum rate of pay for GS-18 of the General Schedule under section 5332 of title 5, United States Code. 1/

(c) Subject to the provisions of this subsection, the Commission may appoint and fix the pay of such additional personnel to be paid out of private donations. An individual appointed to a position funded in such manner shall be so designated at the time of such individual's appointment. The Chairman may appoint such additional personnel as he deems appropriate, not to exceed forty staff members.

Compensation and reimbursement.

(d) Each member of the Commission shall serve without being compensated as a member of such Commission, except that each member shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

Detailed Federal agency personnel.

(e)(1) Upon request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act. Details under this subsection shall be without reimbursement by the Commission to the agency from which the employee concerned was detailed.

(2) The Commission may accept ~~the~~ services ~~of not to exceed twenty employees under this subsection at any time.~~ 1/

(f) The Commission is authorized to procure supplies, services, and property, and make contracts, in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts or are donated pursuant to subsection (h) of this section.

(g) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be

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1/ Changes made by Pub. L. 99-190.

made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

Donations.

(h)(1) The Commission is authorized to accept, use, solicit, and dispose of donations of money, property, or personal services.

Regulations.

(2) The Commission shall prescribe regulations under which the Commission may accept donations of money, property, or personal services, except that under such regulations, the Commission may not accept donations—

(A) the value of which exceeds $25,000 annually, in the case of donations from an individual; or

(B) the value of which exceeds $100,000 annually, in the case of donations from a corporation, partnership, or other business organization.

(3) The regulations prescribed under this subsection shall include procedures for determining the value of donations of property or personal services.

(4) The limitations set forth in this subsection shall not apply in the case of an organization if it is an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)), and exempt from taxation under section 501(a) of such Code.

(i) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

Logo.
Rules, regulations, and prohibitions.

(j) The Commission shall have the authority to design and use a logo as the official emblem of the bicentennial. The Commission shall issue rules and regulations, including penalties for unauthorized use, regarding the use of such logo, except that under those regulations, the Commission shall be prohibited from selling, leasing, or otherwise granting to any corporation or private person the right to use the logo in connection with the production or manufacture of any commercial goods, as part of an advertisement promoting any commercial goods or services, or as part of an endorsement for any such goods or services.

DUTIES OF THE COMMISSION

SEC. 6. (a) The Commission shall—

(1) plan and develop activities appropriate to commemorate the bicentennial of the Constitution, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) encourage private organizations, and State and local governments to organize and participate in bicentennial activities commemorating or examining the drafting, ratification, and history of the Constitution and the specific features of the document;

(3) coordinate, generally, activities throughout all of the States; and

(4) serve as a clearinghouse for the collection and dissemination of information about bicentennial events and plans.

(b) In planning and implementing appropriate activities to commemorate the bicentennial, the Commission shall give due consideration to—

(1) the historical setting in which the Constitution was developed and ratified, including such antecedents as the Federalist Papers, the Articles of the Confederation, and the ratification debates in the States;

(2) the contribution of diverse ethnic and racial groups;

(3) the relationship and historical development of the three branches of the Government;

(4) the importance of activities concerning the Constitution and citizenship education throughout all of the States regardless of when such State achieved statehood;

(5) the unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings;

(6) the diverse legal and philosophical views regarding the Constitution;

(7) the need for reflection upon both academic and scholarly views of the Constitution and the principle that the document must be understood by the general public;

(8) the substantive provisions of the Constitution itself;

(9) the impact of the Constitution on American life and government;

(10) the need to encourage appropriate educational curriculums designed to educate students at all levels of learning on the drafting, ratification, and history of the Constitution and the specific provisions of that document; and

(11) the significance of the principles and institutions of the Constitution to other nations and their citizens.

Private and governmental organizations, assistance

(c) The Commission shall seek the cooperation, advice, and assistance from both private and governmental agencies and organizations, including the National Endowment for the Arts, the National Endowment for the Humanities, the Library of Congress, the Smithsonian Institution, the National Archives, the Department of the Interior, State and local governments, learned societies, academic institutions, and historical, patriotic, philanthropic, civic, and professional groups, and bar associations.

(d) The Commission may, in carrying out the purposes of this Act, delegate authority to State advisory commissions to assist in implementing this Act.

Report to President, Congress, and Judicial Conference of U S

(e) Within two years after the date of enactment of this Act, the Commission shall submit to the President and each House of the Congress and the Judicial Conference of the United States a comprehensive report incorporating specific recommendations of the Commission for commemoration and coordination of the bicentennial and related activities. Such report shall include recommendations for publications, scholarly projects, conferences, programs, films, libraries, exhibits, ceremonies, and other projects, competitions and awards, and a calendar of major activities and events planned to commemorate specific historical dates. Each year after such comprehensive report, the Commission shall submit an annual report to the President, each House of the Congress, and the Judicial Conference until such Commission terminates.

TERMINATION

SEC. 7 The Commission shall terminate on December 31, 1989.

AUTHORIZATION OF APPROPRIATIONS

Sec. 8. There are authorized to be appropriated to carry out the purposes of this Act $300,000 for fiscal year 1984 and such sums as may be necessary for the subsequent fiscal years through fiscal year 1989.

EFFECTIVE DATE

Sec. 9. This Act shall become effective on the date of enactment.

Approved September 29, 1983.

LEGISLATIVE HISTORY—S.118:

SENATE REPORT No. 98-68 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 129 (1983):
  July 18, considered and passed Senate.
  Aug. 4, considered and passed House, amended.
  Sept. 14, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 39 (1983):
  Sept. 29, Presidential statement.

S. 1264

Ninety-ninth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the third day of January, one thousand nine hundred and eighty-five

An Act

To amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arts, Humanities, and Museums Amendments of 1985".

TITLE V—CONSTITUTIONAL BICENTENNIAL EDUCATION PROGRAM

SEC. 501. EDUCATION PROGRAM FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS.

(a) GENERAL AUTHORITY.—(1) The Commission on the Bicentennial of the United States Constitution shall, in accordance with the provisions of this section, carry out an education program for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights.

(2) To commemorate the bicentennial anniversary of the Constitution of the United States and the Bill of Rights, the Commission—

(A) is authorized to make grants to local educational agencies, private elementary and secondary schools, private organizations, individuals, and State and local public agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are designed for use by elementary or secondary school students; and

(B) shall implement an annual national bicentennial Constitution and Bill of Rights competition based upon the programs developed and used by elementary and secondary schools.

(3) In carrying out the program authorized by this section, the Chairman of the Commission shall have the same authority as is established in section 10 of the National Foundation on the Arts and the Humanities Act of 1965.

(b) DEFINITION.—For the purpose of this section, the term "Commission" means the Commission on the Bicentennial of the United States Constitution.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to paragraph (1) may be used for necessary administrative expenses, including staff.

[Billing Code 634001]

COMMISSION ON THE
BICENTENNIAL OF THE
UNITED STATES CONSTITUTION
45 CFR Part 2000
Organization and Functions

AGENCY: Commission on the Bicentennial of the United States Constitution

ACTION: Final rule, for information only.

SUMMARY: These regulations are for the purpose of informing the public as to the creation and organization of the Commission on the Bicentennial of the United States Constitution, its purposes, duties and functions. The intended effect is to provide basic information on the authority and structure of the Commission so that individuals and public and private organizations, including governmental agencies, may deal with the Commission in an informed manner.

ADDRESS: 734 Jackson Place, N.W., Washington, D.C. 20503. Tel. (202) USA-1787.

FOR FURTHER INFORMATION CONTACT: Joseph B. McGrath, General Counsel, Tel. (202) USA-1787.

SUPPLEMENTARY INFORMATION:

Background:

This regulation is designed to inform the public as to the creation, authority, organization, purposes and functions of the Commission. Although its enacting statute was approved in September 1983, the Commission was not appointed until June 1985. Its first five months were spent in selecting a Staff Director and an initial staff, in developing basic policies on project and program recognition and in obtaining funds to operate. It is now important for the general public to know the basic facts about the Commission and its operations, which this regulation provides.

Classification:

This is not a major rule under E.O. 12291 since it has no effect on the economy, on costs or on prices, nor does it affect economic competition and U.S. enterprise. It has no effect on the environment and no environmental impact statement is necessary.

Public Comment:

This regulation is being issued as a final rule without opportunity for public comment since it consists solely of a recital of facts and an explanation of the organization and functions of the Commission.

Statutory Authority:

This regulation is issued under the general powers granted to the Commission by Pub. L. 98-101, 97 Stat. 719, and the authority of 5 U.S.C. 552.

List of Subjects in 45 CFR Part 2000:

U.S. Constitution Bicentennial, Commemorative activities, Donations

Issued in Washington, D.C. on January 10, 1986

Mark W. Cannon

Mark W. Cannon, Staff Director

For the reasons set out in the preamble and under the authority of Pub. L. 98-101, 97 Stat. 719, a new Chapter XX is established and a new Part 2000 is added to Title 45, Code of Federal Regulations, to read as follows:

Title 45 PUBLIC WELFARE

Chapter XX COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

Part 2000-ORGANIZATION AND FUNCTIONS

Subpart A - Commission Organization

Section 2000.10 Authorization.
Section 2002.11 The Commission.

(a) Composition.
(b) Recommendations for appointment.
(c) Balanced membership.
(d) Term of Commissioners.
(e) Service without compensation.
(f) Vacancies.
(g) Quorum.
(h) Qualifications.

Section 2000.12 The Chairman.
Section 2000.13 Purpose, Duties and Responsibilities.
Section 2000.14 Delegation to State Commissions.

Subpart B - Powers and Functions

Section 2000.20 Personnel.
Section 2000.21 Facilities and Services.
Section 2000.22 Donations to Commission.

(a) Authorization.
(b) Limits.
(c) Nonprofit donors.

Subpart C - Commemorative Activities

Section 2000.30 Planning Considerations.

Subpart D - Commission Operations.

Section 2000.40 Office of the Commission.

Authority: Pub. L. 98-101; 97 Stat. 719; 5 U.S.C. 552.

PART 2000 - ORGANIZATION AND FUNCTIONS

Subpart A - Commission Organization

Section 2000.10 Authorization.

The Commission on the Bicentennial of the United States Constitution was authorized by Pub. L. 98-101, 97 Stat. 719, signed by the President on September 29, 1983. Appointment of the Commission and designation of the Chairman were announced by the President on June 25, 1985. Commission members were sworn into office on July 30, 1985. The first meeting of the Commission was held on July 29 and 30, 1985.

Section 2000.11 The Commission.

(a) Composition. The Commission is composed of 23 members chosen and appointed in accordance with section 4 of Pub. L. 98-101, 97 Stat. 719, as follows:

(1) Twenty members appointed by the President;

(2) The Chief Justice of the United States or his designee;

(3) The President pro tempore of the United States or his designee;

(4) The Speaker of the United States House of Representatives or his designee.

(b) Recommendations for appointment. Of the 20 members appointed by the President, 12 were appointed from recommendations made as follows:

(1) Four were appointed from among recommendations made by the Chief Justice of the United States;

(2) Four were appointed from among recommendations made by the President pro tempore of the United States Senate;

(3) Four were appointed from among recommendations made by the Speaker of the United States House of Representatives.

(c) Balanced membership. In making recommendations to the President regarding appointments to the Commission, the statutory mandate was to achieve a balanced membership representing, to the maximum extent practicable, the Nation as a whole.

(d) Term of Commissioners. Members of the Commission are appointed for the life of the Commission, which terminates December 31, 1989.

(e) Service without compensation. Members of the Commission serve without being compensated as a member of the Commission, except that each member is reimbursed for travel, subsistence and other necessary expenses incurred in performance of Commission duties.

(f) Vacancies. A vacancy in the Commission must be filled in the same manner in which the original appointment was made. A vacancy does not affect the powers of the Commission.

(g) Quorum. Twelve members of the Commission constitute a quorum, but a lesser number may conduct meetings.

(h) Qualifications. Commission members are required to be chosen from among individuals who have demonstrated scholarship, a strong sense of public service, expertise in the learned professions, and abilities likely to contribute to the fulfillment of the duties of the Commission.

Section 2000.12 The Chairman.

(a) The Chairman of the Commission is the Chief Justice of the United States, who is also a member of the Commission.

(b) The Chairman is designated by the President of the United States and serves at the pleasure of the President.

(c) The Chairman is authorized by the Commission to appoint an Executive Committee and such committees of the Commission as the Chairman believes will advance and expedite the work of the Commission.

Section 2000.13 Purpose, Duties and Responsibilities.

(a) The primary purpose of the Commission is to promote and coordinate activities to commemorate the bicentennial of the United States Constitution.

(b) The duties of the Commission include the following:

(1) To plan and develop activities to commemorate the bicentennial of the Constitution, including a limited number of projects to be undertaken by the Federal Government;

(2) To encourage private organizations, and State and local governments, to organize and participate in bicentennial activities commemorating or examining the drafting, ratification, and history of the Constitution and the specific features of the document;

(3) To coordinate, generally, commemorative bicentennial activities throughout all of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of American Samoa, Guam and the Virgin Islands; and

(4) To serve as a clearinghouse for the collection and dissemination of information about the bicentennial events and plans.

(c) The Commission is required to submit an annual report to the President, to each House of the Congress, and to the Judicial Conference of the United States.

(d) The Commission is directed to seek the cooperation, advice and assistance of both public and private organizations, including governmental agencies.

Section 2000.14 Delegation to State Commissions.

(a) In carrying out its purposes, the Commission may delegate authority to State bicentennial advisory commissions to assist in implementing Pub. L. 98-101, 97 Stat. 719.

Subpart B - Powers and Functions

Section 2000.20 Personnel.

(a) In carrying out its functions and responsibilities, the Commission is empowered:

(1) To appoint a Staff Director;

(2) To appoint and fix the compensation of such additional publicly paid personnel as the Chairman finds

necessary to carry out the purposes of the Commission;

(3) To appoint and fix the pay of additional personnel to be paid out of private donations, not to exceed forty staff members;

(4) To request the head of any Federal agency to detail to the Commission, without reimbursement to the agency, such personnel as the Commission may require for carrying out its duties and functions.

(b) The Staff Director has responsibility for administering the work of the Commission's staff under the oversight of the Chairman and the Commission.

Section 2000.21 Facilities and Services.

(a) To accomplish its purposes, the Commission is authorized to procure supplies, services and property, within the limits of appropriated or donated funds, and to enter into agreements with the General Services Administration.

(b) The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies.

Section 2000.22 Donations to Commission.

(a) Authorization. The Commission is authorized to accept, use, solicit and dispose of donations of money, property, or personal services.

(b) Limits. Donations may not exceed (1) $25,000 in value annually, in the case of individual donors, or (2) $100,000 in value annually in the case of donations from a corporation, partnership, or other business organization.

(c) Nonprofit donors. There is no limit on donations from a nonprofit organization which is tax exempt and qualified under section 501(c)(3) of the Internal Revenue Code.

Subpart C - Commemorative Activities

Section 2000.30 Planning Considerations.

(a) In planning and implementing appropriate activities to commemorate the bicentennial, the Commission shall give due consideration to the following:

(1) The historical setting in which the Constitution was developed and ratified;

(2) The contribution of diverse ethnic and racial groups;

(3) The relationship and historical development of the three branches of the Government;

(4) The importance of activities concerning the Constitution and citizenship education throughout all of the States regardless of when each State achieved statehood;

(5) The unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings;

(6) The diverse legal and philosophical views regarding the Constitution;

(7) The need for reflection upon academic and scholarly views of the Constitution as well as the principle that the general public also must understand the document, its contents and meaning.

(8) The substantive provisions of the Constitution itself;

(9) The impact of the Constitution on American life and government;

(10) The need to encourage appropriate educational curriculums designed to educate students at all levels on the drafting, ratification, and history of the Constitution and its specific provisions; and

(11) The significance of the principles and institutions of the Constitution to other nations and their citizens.

Subpart D - Commission Operations

Section 2000.40 Offices of the Commission.

The offices of the Commission are located at 734 Jackson Place, N.W., Washington, D.C. 20503. There are no field offices.

[Billing Code 634001]

A31 THE NEW YORK TIMES, WEDNESDAY, DECEMBER 11, 1985

The New York Times

Founded in 1851

WASHINGTON | James Reston

The Chief Justice Is Calling

Guiding the Constitution's Bicentennial

WASHINGTON

It's not often that the Chief Justice of the United States emerges from the silent portals of the Supreme Court to call on the American people for help, but Warren E. Burger is calling on us now.

As chairman of the Bicentennial of the United States Constitution, he is asking us not to forget our present conflicts but to remember the 200th anniversary of the signing of the Constitution on Sept. 17, 1987, and to use these coming two years to educate ourselves and our children about its meaning.

The Chief Justice has no illusion that his speeches, remarkably good as they are, or that the work of his little commemorative committee will arrest the attention of the American people.

He is appealing for help from the media, the schools, the colleges and all other organizations, religious or secular, to give this commemoration of the Constitution the attention it deserves, and so far isn't getting.

How did it come about, Chief Justice Burger asked recently, that 55 men in a country of barely three million produced in Philadelphia almost 200 years ago a Constitution to govern themselves that still serves a nation of 250 million, and remains one of the mysteries and triumphs of the political world?

It's a good question, and there are some examples in American history about how it might be answered. On the American frontier, it was the women — always the women — who organized the book clubs and the discussion groups to puzzle out their problems.

Even in the desperate days of the Civil War, Mr. Lincoln signed the Morrill Acts for the creation of the land grant colleges in the belief that the education of the poor would promote the general welfare.

Chief Justice Burger learned all about this in his native Minnesota, and knows the potential power of these American institutions.

Now, in every state, city, town and village, we have parent-teacher associations, service organizations, labor and business institutions, country newspapers, suburban papers, radio and television stations galore — the most spectacular communications network in the history of the world — most of them concentrating on the narrow conflicts of the day's latest disasters.

Chief Justice Burger is not saying that we should evade these unavoidable conflicts — that's what the Supreme Court does every day — but that in the confusion, we should take time out on the 200th anniversary of the Constitution to reflect on where we've been and where we're going.

This would require more than speeches from the Chief Justice. A few fundamental documents could guide the nation's discussion in the next two years.

For example, nearing the end of World War II, and fearing that the United States might reject the organization of the United Nations, as it abandoned the League of Nations after World War I, a very few people in the Roosevelt and later in the Truman Administration put together a clear and simple explanation of the problem and circulated it all over the country for discussion in everything from university classrooms to church basements and Rotary meetings.

This involvement of the people had a critical and maybe even a decisive effect on this nation's foreign policy when at the end of World War II, the New World was summoned to the defense of the old Western civilization.

"One of the unique features of our Constitution," Chief Justice Burger said the other day, "is that it was not a grant of power from government to the people, but a grant of power by the people to the government, which they — the people — had created."

But what I think the Chief Justice is saying is that the people have forgotten to remember, that they are so battered by bad news every day that they have forgotten the foundation of the Constitution.

He knows very well that in the summer of 1987 the Constitution will be big news, when everybody is off on vacation. But that's not his point.

He wants these next two years to be used for the education of our children on what the endurance of the Constitution for 200 years means. He is appealing to the newspapers, to the people who produce documentaries on radio and television, to the school principals and administrators of colleges and universities.

Please, he's saying, pay attention to the good news of our history at a time and on an occasion when they might listen. You owe it to your children, who will have to carry the Constitution into the next century.

Commission on the Bicentennial of The United States Constitution

734 Jackson Place, N.W. · Washington, DC 20500
202/USA-1787

Bridging the "History Gap": New Challenge for U.S. Schools

American culture—it might as well be Greek to many young people unfamiliar with the nation's heritage.

What do high-school students need to know about U.S. history and literature to be productive citizens in the 1980s?

That question gained fresh urgency following the recent release of a pilot study showing that basic facts of American culture were foreign to many high-school juniors. Concern was great because they are nearing an age when they can vote, fight for their country and make informed choices as citizens.

The disappointing results came from a study last spring of 200 17-year-olds conducted by the National Assessment of Educational Progress. In that test:

- Two thirds could not place the Civil War in the correct half-century.
- Half could identify neither the Supreme Court decision *Brown v. Board of Education* nor the concept of "separate but equal."
- Half also failed to recognize the names of Winston Churchill and Joseph Stalin; three fourths were stumped by Walt Whitman, E. E. Cummings, Henry David Thoreau and Carl Sandburg.

The pretest, part of a larger assessment to be given next spring to more than 10,000 students, provoked reactions of shock and dismay among educators. Responded Diane Ravitch, adjunct professor of history and education at Columbia University Teachers College who helped originate the "Foundations of Literacy" study: "If students don't really know about the most important, seminal events in U.S. history, how can they know what's worth saving?"

Much of the blame, say educators, rests on curricular revisions over the past two decades. For one, history was absorbed within the hybrid known as "social studies," a grouping of subjects that include history, geography, government, economics and law. While most states still required students to take at least a year of U.S. history to graduate from high school, the focus turned to making the past relevant to the present, instead of giving the past a life of its own, rich with people and major events.

As the role of history within the curriculum declined, so did teacher expertise in the discipline. In many districts, teachers could become certified to head social-studies classes without having taken a college history course. The result was heavier reliance on textbooks, which generally offered bland and simplified accounts of passion-filled times.

A final issue affecting history instruction was the question of how to recognize the contributions minority groups had made to U.S. history and culture. The response, in many cases, was to offer separate lessons about each ethnic group, which tended to fragment rather than unify discussions of history.

"The key issue now," says Paula Gillett, director of a project at the University of California at Berkeley to improve history education, "is to see whether we can honor and encourage this examination of America's diversity without continuing the fragmentation of the past."

Toward this goal, a number of districts are re-examining the way they look at history. Last summer, teachers and principals in Fairfax County, Va., studied the Civil War period through the era's literature, architecture, art and music. A program based on this approach is to be tested for fifth graders next year. "Students learn much more about the chronology of events if they see their social and cultural bases," explains Roy Erickson, who uses a similar approach as social-studies coordinator for the San Juan (Calif.) Unified School District.

Spotlight on teachers. Special attention is being given to increasing teachers' understanding of the subject. As part of a national program called the History Teaching Alliance, secondary-school teachers in seven school districts are working with local university history professors to improve instruction about the U.S. Constitution.

Iowa State University Prof. Clair Keller teaches both beginning and veteran instructors how to get inside events and "personalize" them. In one exercise, teachers are given a biographical sketch of a colonist who lived during the American Revolution and are asked to explain whether the person became a loyalist or a rebel or remained neutral.

To reduce dependence on textbooks, the Graduate School of Education at the University of California at Berkeley is bringing together university faculty and classroom teachers to create materials that use primary sources from the period being studied, such as letters, novels and poetry. The school also will advise teachers on how to use these materials.

The National Endowment for the Humanities is supporting such efforts by giving priority to funding projects that improve students' knowledge of the U.S.

As educators try to agree on what common history and literature should be taught, fears remain that the role of minorities may again be ignored in favor of an Anglo-American approach.

That tack would be inaccurate, says John Hope Franklin, professor emeritus of history at Duke University. "Cultural literacy is not a literacy that came from England. It's that marvelous amalgam which is what America's all about." ☐

By LUCIA SOLORZANO

Do You Know Me?

Early signals from a pilot study of high-school students showed wide gaps in their knowledge of United States history and literature. One third of them did not know that Christopher Columbus sailed for the New World before 1750; one half could not identify Winston Churchill; three fourths did not know who Carl Sandburg was.

MEMBERS OF THE COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

BRIEF BIOGRAPHIES

WARREN E. BURGER

Warren E. Burger has been Chief Justice of the United States since 1969. The Chief Justice holds other offices, including, either by law or tradition, the following: Chairman of the Judicial Conference of the United States, Chairman of the Federal Judicial Center, Chancellor of the Smithsonian Institution, Trustee of the National Gallery of Art, Trustee of the National Geographic Society, and Chairman of the Commission on the Bicentennial of the United States Constitution.

Chief Justice Burger was born in 1907 in St. Paul, Minnesota. He enrolled at the University of Minnesota and then at the St. Paul (now William Mitchell) College of Law. He earned his LL. B. *magna cum laude* in 1931 and entered practice as an associate in a law firm where he soon became a full partner. His experience for 21 years spanned the gamut of civil and administrative practice. In 1953, he was appointed Assistant Attorney General as Chief of the Civil Division in the Department of Justice by President Eisenhower. Three years later, President Eisenhower appointed him to the United States Court of Appeals for the District of Columbia Circuit, where he served until his appointment as Chief Justice of the United States in 1969.

FREDERICK K. BIEBEL

Frederick K. Biebel is Executive Vice President of the International Cooperation Fund, an organization founded to promote cooperation and educational exchanges among organizations committed to democratic principles. He served from February 1981 to February 1985 as Deputy Chairman of and White House Liaison for the Republican National Committee.

Born in Bridgeport, Connecticut, in 1926, Mr. Biebel held several national offices in the U. S. Junior Chamber of Commerce (Jaycees). He became Chief Executive Officer and Chairman of the Board of the Pace Corporation, a Connecticut-based consulting firm. He also founded and developed a statewide publication, "Connecticut Magazine."

Mr. Biebel has served as Chairman of the Bicentennial Council of the Thirteen Original States and as Chairman of the U. S. Constitution Commission. In addition, he has served on the Connecticut Historical Commission and the American Revolution Bicentennial Commission of Connecticut.

LINDY BOGGS

Congresswoman Lindy Boggs is serving her seventh term as the U. S. Representative for the 2nd District of Louisiana. She was first elected to office on March 20, 1973, in a special election called to fill the vacancy caused by the disappearance of her husband, Hale Boggs, in a plane flight over Alaska. At the time, Mr. Boggs was Majority Leader of the U. S. House of Representatives.

Congresswoman Boggs was born at Brunswick Plantation, Louisiana. She graduated from Sophie Newcomb College of Tulane University and after graduation taught English and history in St. James Parish, Louisiana.

Congresswoman Boggs serves on the House Appropriations Committee and is a member of that Committee's Energy and Water Development, HUD/Independent Agencies, and Legislative Branch Subcommittees. She also serves on the Select Committee on Children, Youth and Families, chairing its Task Force on Crisis Intervention. She has presided at hearings exploring teen suicide, the impact of alcohol and drug abuse on families, ways to prevent young people from becoming juvenile offenders, and stronger partnerships between private sector service agencies and the federal government.

Congresswoman Boggs is the first woman to be elected to Congress from Louisiana. In 1976 she became the first woman to chair the convention of a major American political party when she chaired the Democratic National Convention, held in New York City. She is the first woman to have been named a Regent of the Smithsonian Institution; she was further honored by the Smithsonian in 1980 when she was given a lifetime appointment as Regent Emeritus.

The Speaker of the U. S. House of Representatives recently named her Chairman of the Commission on the Bicentenary of the House of Representatives. She is also a member of the National Historical Records and Publications Commission.

HERBERT BROWNELL

Herbert Brownell, currently of counsel to the New York law firm of Lord, Day and Lord, specializes in general corporate and private international law. He was a partner with that firm from 1929 until 1953, when he was appointed Attorney General of the United States. He returned to Lord, Day and Lord after five years as Attorney General.

Mr. Brownell was born in Peru, Nebraska, in 1904 and received a B. A. from the University of Nebraska in 1924. He attended law school at Yale University, where he received an LL. B. in 1927. The next year he was admitted to the bars of New York state, the U. S. District Court and the U. S. Court of Appeals.

In 1972 Mr. Brownell was special ambassador to Mexico for the Presidential Study on the Colorado River Dispute. In addition, he has served as Chairman of the Republican National Committee and has been an active member of the American Bar Association, the American Judicature Society, the American Law Institute, and the Association of the Bar of the City of New York.

LYNNE V. CHENEY

Lynne V. Cheney is senior editor of *The Washingtonian* magazine, where she writes a monthly column, "Washingtoniana," on the history of the Nation's Capital. She has also written for numerous other publications, including *American Heritage* and *Smithsonian* magazine, with her articles often focusing on women's history.

A native of Wyoming, Dr. Cheney graduated from Natrona County High School in Casper, Wyoming, in 1959. She attended Colorado College where she earned her bachelor's degree with the highest honors, then went to the University of

Colorado, where she earned her master's in 1964. She received a doctorate from the University of Wisconsin in 1970. Since that time, she has taught at a number of colleges and universities, including the University of Wyoming and The George Washington University in Washington, D. C.

Dr. Cheney is the author of two novels, *Executive Privilege* (Simon and Schuster, 1979), and *Sisters* (New American Library, 1981). She is co-author of *Kings of the Hill* (Continuum, 1983), which profiles eight leaders of the United States House of Representatives from Henry Clay to Sam Rayburn.

PHILIP M. CRANE

Philip M. Crane was elected to the United States House of Representatives in a special election in 1969. He has been reelected in succeeding years.

Congressman Crane was born in Chicago on November 3, 1930, and attended public elementary and secondary schools on the city's South Side. He graduated from Hillsdale College in Michigan with a B. A. degree in psychology and history in 1952. He completed his studies at Indiana University, where he received an M. A. degree in history in 1961 and his Ph. D. in 1963 in the same subject. He taught history at Indiana University for three years before joining the faculty of Bradley University in Peoria, Illinois, where he was an assistant professor of history from 1963 to 1967. In 1967 and 1968, he was the Director of Schools at Westminster Academy in Northbrook, Illinois.

His professional affiliations have included the American Historical Association, the Organization of American Historians, The Philadelphia Society, University Professors for Academic Order, and The Capitol Historical Society. He is the author of three books: *The Democrat's Dilemma* (1964), *The Sum of Good Government* (1976), and *Surrender in Panama: The Case Against the Treaty* (1978), and he has contributed to numerous other publications.

Congressman Crane is the fourth ranking Republican on the Ways and Means Committee with jurisdiction over energy, taxes, trade, Medicare, welfare reform, and social security. He serves on the Trade and Social Security Subcommittees.

In 1959, he married the former Arlene Catherine Johnson of Chicago; they have eight children.

WILLIAM J. GREEN

William J. Green served as mayor of Philadelphia from 1980 until 1984 and as a member of the U. S. House of Representatives from that City for seven terms from April, 1964, to January, 1977.

Mr. Green was born in Philadelphia and attended St. Joseph's College there, where he received a B. S. in 1960. He matriculated at Villanova Law School but before graduating entered Congress as a Democrat in a special election in 1964 to fill a vacancy caused by his father's death. While in Congress, he was elected by colleagues to serve on the House Ways and Means Committee. In 1974, Representative Green became Chairman of that Committee's International Trade Subcommittee.

In January, 1984, he joined the Philadephia law firm of Wolf, Block, Schorr, and Solis-Cohen as a partner.

EDWARD VICTOR HILL

Reverend Edward Victor Hill was born on November 11, 1933, in Columbus, Texas, and was raised in Sweet Home Community in Seguin, Texas. He received his Bachelor of Science degree from Prairie View A. & M. College in Prairie View, Texas, in 1955, majoring in agronomy.

Reverend Hill has received honorary degrees from Union Theological Seminary (Houston, Texas), Providence Theological Seminary (Los Angeles, California), California Graduate School of Theology (Glendale, California), Biola University (La Mirada, California), and Oral Roberts University (Tulsa, Oklahoma).

Reverend Hill is presently the pastor of The Mount Zion Missionary Baptist Church in Los Angeles. He is also Vice President of the National Baptist Convention, USA, Inc. His many other involvements include President of the World

Christian Training Center; President of STEP (formerly Foundation for the Poor); Organizer, Builder, and President of E. Victor Villa, Inc., a senior citizens housing project; President of the United Benevolent Society; Member of the Board of Directors of the Billy Graham Association; Member of the Board of Directors of the National Roundtable; Member of the Board of Trustees of Bishop College; Member of the Board of Directors of the National Institute of Biblical Inerrancy; Member of the Board of Directors of America for Jesus; Member of the Board of Reference of African Enterprise; Member of the Board of Reference of Bob Harrison Crusades; Member of the Board of Reference of the Christian Embassy, Washington, D. C.; Member of the Billion Dollar Campaign for Campus Crusade for Christ; Life Member of the N. A. A. C. P.; and Life Member of the National Baptist Convention, USA, Inc.

Reverend Hill is married to the former Jane Edna Coruthers, the daughter of Dr. and Mrs. John Milton Coruthers of Prairie View, Texas. The Hills have two children.

CORNELIA G. KENNEDY

Judge Cornelia Kennedy was appointed to the United States Court of Appeals for the Sixth Circuit in 1979. She received her B. A. in 1944 and J. D. with distinction in 1947 from the University of Michigan. She was awarded honorary LL. D. degrees from Northern Michigan University in 1970, Eastern Michigan University in 1971, Western University in 1973, and Detroit College of Law in 1980.

Prior to taking the appellate bench, Judge Kennedy served as United States District Judge for the Eastern District of Michigan from 1970 to 1979 (Chief Judge from 1977 to 1979) and Judge of the Third Judicial Circuit of Michigan from 1967 to 1970. She was Chairman of the National Conference of Federal Trial Judges during 1974 and 1975. She has been a member of the Judicial Conference Advisory Committee on Judicial Activities, belonged to its Joint Committee on the Code of Judicial Conduct from 1973 to 1979, and has been on its Advisory Committee on Codes of Conduct since 1979. In

1981 she was elected to the Board of the Federal Judicial Center.

Judge Kennedy is married to Charles S. Kennedy, Jr., and has one son, Charles S., III. She is a member of the American Bar Association, the Federal Bar Association, and several other related organizations.

EDWARD M. KENNEDY

Senator Edward Kennedy has been a United States Senator for Massachusetts since 1962.

Early in his career, Senator Kennedy served in the United States Army and later attended Harvard University, where he graduated in 1956 with a B. A. in history and government. He has studied at the International Law Institute at The Hague and worked for a time in North Africa as a reporter for the International News Service. Senator Kennedy completed his education with an LL. B. from the University of Virginia Law School in 1959 and was admitted to the Massachusetts bar later that year.

Senator Kennedy was first sworn into the Senate in 1962, when he was 30 years old, the youngest member ever to join that body and at the minimum constitutional age. He has been Chairman of the Senate Judiciary Committee and has been a member of its Constitutional Rights Subcommittee.

HARRY M. LIGHTSEY, JR.

Harry M. Lightsey, Jr., has been Dean of the University of South Carolina Law Center at Columbia since 1980 and has had an active career as a lawyer and administrator.

Dean Lightsey received his B. S. from Clemson University in 1952 and a doctorate from the University of Georgia in 1956. He earned an LL. B. from the University of South Carolina in 1961 and was admitted to the South Carolina Bar later that year.

From 1962 until 1967, he was Assistant Attorney General for the State of South Carolina. He taught at the University of South Carolina School of Law from 1962 to 1977 and in 1972 was named a full professor. He was engaged in private practice from 1961 to 1972 and 1977 to 1980 as a partner in two South Carolina law firms.

Mr. Lightsey served as legal advisor to the South Carolina Senate Banking and Insurance Commission from 1961 to 1965, Chairman of the South Carolina Human Affairs Commission from 1971 to 1973, and Commissioner of the National Conference of Commissioners on Uniform State Laws since 1974. He was Chairman of the Southeastern Association of American Law Schools in 1984–85 and chaired the University President's Commission to Study Undergraduate Education in 1985.

WILLIAM LUCAS

William Lucas is the Wayne County Executive—the chief executive officer of the fourth largest county in the United States and the biggest county in Michigan, with a population of 2.3 million. He was elected to be Wayne County's first county executive in 1982 and took office January 1, 1983.

Mr. Lucas started out working in New York City as a teacher, social worker, and police officer. He was a civil rights investigator and attorney in the Justice Department under United States Attorney General Robert F. Kennedy. Subsequently, he became a special agent for the F. B. I. and was assigned to offices in Washington, D. C., Cincinnati, and Detroit.

He was appointed Undersheriff in Wayne County in 1968 and Sheriff in 1969. He served 14 years as Wayne County Sheriff before assuming the office of County Executive in 1983.

Mr. Lucas and his wife Evelyn have five children. He is a graduate of Manhattan College and Fordham University Law School and is licensed to practice law in Michigan, New York, federal court, and before the Supreme Court of the United States.

EDWARD P. MORGAN

Edward P. Morgan has practiced law with the Washington, D. C., firm of Welch and Morgan for some 37 years, specializing in the areas of administrative and international law.

He has practiced before federal and state courts around the country.

Mr. Morgan received an A. B. from Northwest Missouri State University in 1934 and attended the graduate school of the University of Missouri in 1935. From 1936 to 1939 he attended Georgetown University Law School in Washington, D. C., receiving an LL. B. In 1943, he received an LL. M. from Georgetown. Mr. Morgan also received the Chetwood Medal for excellence in graduate study from that institution.

In 1940, Mr. Morgan was appointed a Special Agent of the Federal Bureau of Investigation. He served in several positions there and at the time of his resignation in 1947 was Chief Inspector at F. B. I. headquarters in Washington, D. C.

Since then he has practiced with Welch and Morgan and has actively participated on committees and in the affairs of the American Bar Assocation, the District of Columbia Bar Associaton, and the Federal Communications Bar Association. He has served as counsel to the Committee on the District of Columbia of the House of Representatives and to the Foreign Relations Committee of the Senate.

BETTY SOUTHARD MURPHY

Betty Southard Murphy is a partner in the law firm of Baker and Hostetler in Washington, D. C. She is a member of the American Bar Association's Commission on Public Understanding About the Law and in March of 1983 testified before the Constitution Subcommittee of the Senate Judiciary Committee in support of legislation to establish the Commission on the Bicentennial of the United States Constitution.

Mrs. Murphy earned her B. A. from Ohio State University, studied for a year at Alliance Française and the Sorbonne in Paris, and received a J. D. from The American University Law School. She holds honorary LL. D.'s from Eastern Michigan University and Capital University, and she sits on four academic boards.

She is former Chairman of the National Labor Relations Board and former Administrator of the Wage and Hour Division of the Department of Labor.

Mrs. Murphy is the Chairman of several bar association committees, including International Law, has lectured in the United States and abroad on various subjects, and has had a total of six Presidential appointments. An active trial lawyer, she has handled many cases on the First Amendment and has represented reporters, columnists and newspapers.

THOMAS H. O'CONNOR

Dr. Thomas H. O'Connor is currently a Professor of History at Boston College and is a specialist on the Civil War period of American history.

After graduating from Boston Latin School, Dr. O'Connor entered Boston College in 1942 but left for three years' service in the United States Army. He later returned to Boston College where he received his A. B. in 1949 and his M. A. in 1950. He received a Ph. D. in U. S. history from Boston University in 1958.

Dr. O'Connor began teaching at Boston College in 1950 as an instructor and was promoted to an associate professorship which he held until 1970. He served as Chairman of the History Department from 1962 to 1970 and was elected Vice-President of the University Academic Senate, a position he held from 1968 to 1971.

In 1970 he was given full professorship at Boston College, and he served as Faculty Assistant to the President of the College from 1970 to 1972. He has authored several history textbooks and numerous historical articles.

Dr. O'Connor was a member of the Massachusetts Civil War Centennial Commission; a historical consultant for the Boston 200 program; and project director for Forum 350, which commemorated the 350th anniversary of Boston.

PHYLLIS SCHLAFLY

Phyllis Schlafly is a member of the Bar in Illinois, Missouri, and the District of Columbia and is listed in the *World Almanac* as one of the 25 most influential women in the United States.

Mrs. Schlafly received her B. A. from Washington University in St. Louis in 1944 and her J. D. from the Washington

University Law School in 1978. In the interim she received an M. A. from Harvard University in 1945 and an honorary LL. D. from Niagara University in 1976.

She has been a member of the Administrative Conference of the United States since 1982 and has testified more than 50 times before Congressional and state legislative committees. She is the author of 12 books and of a newsletter published monthly since 1967. She writes a syndicated newspaper column and has a daily radio commentary heard on 175 stations. Mrs. Schlafly was a member of Ronald Reagan's 1980 Defense Policy Advisory Board and of the State of Illinois Commission on the Status of Women, 1975 to 1985. She is currently the President of Eagle Forum, a national pro-family organization, is the mother of six children, and in 1985 was named in *Good Housekeeping* as the third most admired woman in the world.

BERNARD H. SIEGAN

Bernard H. Siegan is a Distinguished Professor at the University of San Diego School of Law and teaches a one-year course on Constitutional Law for second-year students. Professor Siegan has written and spoken on constitutional law issues, and foremost among his contributions is his book, *Economic Liberties and the Constitution* (University of Chicago Press, 1980).

Mr. Siegan received his J. D. from the University of Chicago Law School in 1949 and was admitted to the Illinois and federal bars in 1950. During the 1968–69 academic year he was Research Fellow in Law and Economics at the University of Chicago Law School.

In 1973 he moved to La Jolla, California. Professor Siegan was a member of the President's Commission on Housing (1981 to 1982) and Chairman of its Regulations Committee. His active role in the academic field is evidenced by his participation in numerous conferences. In December, 1984, a two-day conference was held devoted entirely to his book; *Economic Liberties and the Constitution*, in which a dozen of the nation's leading constitutional scholars participated. Mr. Siegan was keynote speaker at a Washington, D. C., conference last year on Economic Liberties and the Judiciary. He is also a consultant to the Federal Trade Commission.

TED STEVENS

Senator Ted Stevens is the senior member of the Alaska congressional delegation. He has served in the U. S. Senate since 1968.

Senator Stevens received his B. A. from U. C. L. A. in 1947 and his LL. B. from Harvard in 1950. Before serving in the Senate, Stevens held several positions in the Department of the Interior and served as Solicitor of that Department in 1960. He also served as a member of the Alaska House of Representatives (1964–1968). He has been admitted to practice law in Alaska, California, and Washington, D. C.

Senator Stevens served as Assistant Minority Leader in the 95th and 96th Congresses and as Assistant Majority Leader in the 97th and 98th Congresses. In the 99th Congress, he serves on the Appropriations, Commerce, Governmental Affairs, and Rules Committees. He is also Chairman of the Office of Technology Assessment and Co-chairman of the Senate Observers Group to the arms control talks in Geneva.

OBERT C. TANNER

Obert Tanner is founder and Chairman of the O. C. Tanner Company in Salt Lake City, Utah, a jewelry business.

Mr. Tanner received a B. A. and an LL. B. from the University of Utah in 1929 and 1935, respectively, and went on to earn a M. A. from Stanford University in 1936 and a Juris Doctor from the University of Utah in 1967. He has received numerous honorary degrees and is professor emeritus of philosophy at the University of Utah.

For six years, Mr. Tanner was chairman of the Utah American Revolution Bicentennial Commission and was responsible for some 300 community projects in Utah, including the creation of a Bicentennial Center for the Arts in Salt

Lake City, which included a new symphony hall and arts center, as well as a remodeled theatre for opera and ballet. He has served on the Executive Committee for the White House Conference on Children and Youth and has numerous times been an American delegate to the World Federation of the United Nations Association.

STROM THURMOND

Strom Thurmond has been a United States Senator from South Carolina since December, 1954. Senator Thurmond received his B. S. from Clemson College in 1923. He was admitted to the South Carolina bar in 1930 and from that time until 1938 worked as an attorney in private practice and as a city and county attorney in Edgefield, South Carolina. From 1933 to 1938, Senator Thurmond was a South Carolina State Senator, representing Edgefield County. From 1938 to 1946 he was a South Carolina Circuit Judge, although he took a leave of absence to serve in the United States Army during World War II. In 1947 he was elected Governor of South Carolina, a position he held until 1951. During his term as Governor, Senator Thurmond was a candidate for President in 1948 on the States Rights Democratic Party ticket, garnering the third highest number of electoral votes of any independent candidate in U. S. history.

After his governorship, Senator Thurmond returned to the practice of law, this time in Aiken, South Carolina, and also acted as City Attorney for North Augusta, South Carolina. In 1954 he was elected to the U. S. Senate as a write-in candidate—the first person elected to a major American office by this method.

Senator Thurmond has been Chairman of the Senate Judiciary Committee and a delegate to six Democratic and four Republican National Conventions. He has been President Pro-Tempore of the U. S. Senate since 1981. He also holds more than 20 honorary degrees. Senator Thurmond is a majority member of the Senate Arms Services Committee, and he is a retired Major General in the U. S. Army Reserve.

RONALD H. WALKER

Ronald Walker is currently a senior partner and managing director in the Washington, D. C., firm of Korn/Ferry International. He earned his B. A. from the University of Arizona in 1960.

From 1960 to 1964 he worked with Allstate Insurance Company and in 1969 became Assistant to the Secretary of the Interior. From 1970 to 1972 he worked as a Staff Assistant to the President of the United States, and from 1972 to 1973 he was Special Assistant to the President.

From 1973 to 1975 Mr. Walker served as Director of the National Park Service, based in Washington, D. C. After working as Associate Director of World Championship Tennis, he was president of his own company, Ron Walker and Associates, Inc., in Dallas from 1977 until 1979, when he joined Korn/Ferry International.

CHARLES E. WIGGINS

Charles E. Wiggins is a Judge of the United States Court of Appeals for the Ninth Circuit. President Reagan appointed him to this position in 1984.

Judge Wiggins attended the University of Southern California where he received his B. S. and LL. B., the latter in 1956. Judge Wiggins served in the United States Army from 1945 to 1948 and again from 1950 to 1952. After admission to the California bar in 1957, he entered private law practice in El Monte with the firm of Wood and Wiggins.

During his years in law practice, Judge Wiggins served as Chairman of the El Monte Planning Commission from 1954 to 1960, as Council member to the El Monte City Council from 1960 to 1964, and as Mayor of El Monte from 1964 to 1966.

In 1966, he was elected to the U. S. House of Representatives, where he served six terms as a member of the Judiciary Committee. In 1978, Judge Wiggins returned to Southern California and became a partner in the law firm of Musick, Peeler and Garret until 1982. At that point he returned to Washington, D. C., to become of counsel to the law firm of Pierson, Ball and Dowd; he later worked with the San Francisco law firm of Pillsbury, Madison and Sutro.

Judge Wiggins is a member of the American Bar Association, the California Bar Association, and the District of Columbia Bar Association. He is a member of the Advisory Committee on Federal Rules of Procedure of the Judicial Conference of the United States.

CHARLES ALAN WRIGHT

Charles Alan Wright holds the William B. Bates Chair for the Administration of Justice at The University of Texas School of Law.

After graduating from Wesleyan University (B. A. *cum laude*, 1947) and Yale University (LL. B., 1949), he went into law teaching, serving on the faculty of the University of Minnesota Law School for five years and at The University of Texas since 1955. He has held visiting professorships at Yale, Harvard, and Pennsylvania and has taught summer courses at the Universities of Michigan, Colorado, Utah, and California, and at the University of Kent at Canterbury. Most recently, he was a Visiting Fellow at Wolfson College, Cambridge, during the spring semester of 1984.

Although his more than 50 published books have been largely devoted to the jurisdiction and procedure of the federal courts, Mr. Wright has written extensively on constitutional law in articles for both legal and popular periodicals. He has argued eleven cases before the Supreme Court and has served as legal counsel to a President of the United States. He is a member of the Council of the American Law Institute, a Fellow of the American Academy of Arts and Sciences, and from 1975 to 1983 was a member of the Permanent Committee for the Oliver Wendell Holmes Devise.

We the People

NEWSLETTER OF THE COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION
JANUARY 1986
VOL. 2, NO 1

Bicentennial Commission Meets, Adopts Plans, Criteria For Projects

The Bicentennial Commission met at the Supreme Court Building in Washington on November 24-25 and made many substantive decisions that will guide its activities for the next four years.

Among the major actions of the Commission were: meetings of the newly-appointed Committees to carry out the substantive work of the Commission, discussion of staff and budgets, adoption of regulations on project recognition and support, adoption of regulations on acceptance of contributions and gifts-in-kind, discussion of the status of legislation concerning the Commission, approval to establish a 501 (c) (3) foundation to aid the Commission's work.

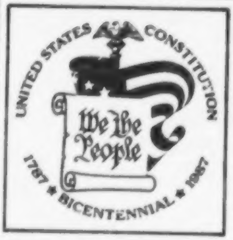
The Commission also selected the logo for the Bicentennial and the seal for the Commission. The logo was one of 42 submissions from various sources. The Committee on Project Endorsements and Support, chaired by Commissioner Cornelia Kennedy, selected three designs as finalists, and the Commission made the final selection.

The winning design was prepared by the Institute of Heraldry of the Army, commanded by Col. Gerald A. Luchino. In response to a request made to the Defense Department, the Institute's staff prepared 14 designs on extremely short notice. The artist for the winning design was Sarah LeClerc.

The seal which was adopted will be stamped in gold, and will appear on all certificates of achievement awarded by the Commission for exceptional efforts by individuals and organizations in the Bicentennial. The Commission will also use it on special presentations.

Policies Adopted

In accord with its enabling legislation, the Commission adopted regulations concerning the acceptance of donations of money, gifts-in-kind, and services. Also in accord with the law, the Commission adopted policies governing its sponsorship, recognition, and other support of projects planned and carried out by other organizations. These regulations will be published in the Federal Register and will be open to public comment. After revisions, if necessary, they will become final.



Official logo of the Commission

The Commission also discussed several proposals to revise its enabling legislation, which were mentioned in its First Report and are now pending before Congress. The proposals include increasing Commission appropriations, raising the limits on gifts by individuals and companies, and extending the Bicentennial to include the 200th anniversary of the ratification of the Bill of Rights. The Commission authorized preparation and presentation of testimony for the congressional hearings on these matters scheduled in December.

Projects Approved

Since the policies on recognition of projects had just been adopted, final approval could not be given on any Bicentennial projects at this Commission meeting. In general, the criteria for Commission recognition are that a project must be: regional, national or international in scope; of substantial educational or historical value; directed by people with a record of successful work in the field; and organized and funded so that the likelihood of success is high.

The Commission agreed to work with the Citizens' Stamp Advisory Committee of the U.S. Postal Service on a series of 28 commemorative stamps. Among those to be designed and issued would be depictions of the meeting of the Convention in Philadelphia, the ratification of the Constitution by each of the original States, the origins of the three branches of government in 1789, and the logo of the Bicentennial Commission.

Committees Named

The following Committees were established to assist the work of the Commission: Executive Committee, chaired by the Chief Justice; Committee on Finance, chaired by Herbert Brownell, with the Congressional Members as Advisors; Advisory Committee on Personnel and Administration, co-chaired by William Lucas and Ronald Walker; Advisory Committee on Educational Projects, co-chaired by Philip Crane and Charles Wright; Advisory Committee on Private Associations and Organizations, co-chaired by Edward Hill and Obert Tanner.

Others include the Advisory Committee on Media, co-chaired by Lynne Cheney and Edward Kennedy; Advisory Committee on Project Endorsements and Support, chaired by Cornelia Kennedy; Advisory Committee on Federal Liaison, co-chaired by Frederick Biebel and Lindy Boggs; Advisory Committee on State and Local Liaison, co-chaired by William Green and Phyllis Schlafly; and the Advisory Committee on International Liaison, chaired by Betty Southard Murphy. □

AEI Meeting For International Scholars

The American Enterprise Institute conducted a forum on November 18-20 in the conference rooms of the Supreme Court in Washington. The Conference began with a dinner on Sunday, hosted by Chief Justice Warren E. Burger and other members of the Court.

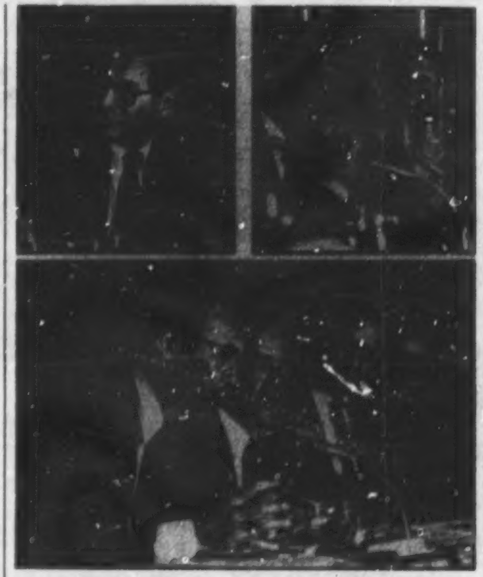
Some 40 constitutional judges, scholars and other experts from around the world took part in the Conference, "Unity and Diversity: An International Conference on Constitutionalism." This was the second of a series of international conferences as part of the AEI's Bicentennial Project, "A Decade of Study of the Constitution," directed by Resident Scholar Robert A. Goldwin.

The AEI is one of the organizations whose Bicentennial efforts are substantial and long-standing. The AEI's Bicentennial Project is now in its eighth year. Books, conferences and television programs are among the products of its efforts.

The participants included the Chief Justice of the Supreme Court of Zimbabwe, the Solicitor General of the Republic of Singapore, a judge of the Constitutional Tribunal of Spain, and public figures, academics and judges from 22 countries besides the United States. Each session addressed, in its own way, the problem of accommodating diversity under a nation's constitution without doing fatal damage to the fabric of the nation. As Dr. Goldwin noted at the beginning of the Conference, "Some people may think the United States—known as the 'melting pot' of the world—is one of only a few nations struggling with problems of diversity. As this Conference demonstrates, we are but one of many such nations. We can all learn a great deal from each other about constitutional problems and solutions concerning differences of race, religion, language and nationality."

The Conference demonstrated the degree to which concepts of freedom of religion, freedom of the press, citizenship of the entire nation, and the right to travel are often adopted in the constitutions of other nations from the oldest written constitution, that of the United States.

Papers were presented on the constitutions of Belgium, Canada, India, Malaysia, Spain, Switzerland, the United States and Yugoslavia. In addition to the working sessions, receptions for the participants were held at several government departments, including the Department of Justice, the Department of State and the National Archives. The AEI also hosted a reception.



Upper left: Robert A. Goldwin, Director of Constitutional Studies, AEI; Upper right, left: Jean-Pierre De Bandt, De Bandt, Van Hecke, Lagae & Van Bael, Brussels, Belgium; Professor Torran Marshall, University of Paris; Below, left to right: Jose Sorzano, President, Cuban American National Foundation; Professor Jacob Landau, Hebrew University, Jerusalem; Professor and former Dean of Law Faculty Jacques Vanderlinden, University of Brussels.

Each of the papers addressed, from the standpoint of that nation, the accommodations made in its constitution for the diversity of the population. India was the largest of the nations represented, and the one with the greatest religious and cultural disparities among its people. The Indian Constitution of 1950 was one of the longest ever written, extending to 251 pages, and recognizing and protecting six main religions and nearly 200 "religious persuasions."

Despite its length and complexity, the goal of the Indian Constitution was to meld many peoples with many traditions into a single nation. A major step in this direction was the declaration of a common language, Hindi in the Devanga script, with English as a second official language.

Each of the other papers addressed the same central point. Very large portions of the populations of nations other than the United States consist of people who have distinct and different cultural traditions, including a separate language. All of the other nations' constitutions make specific accommodations for these differences.

The AEI will publish a volume containing the Conference papers and selected portions of the proceeding. □

Selected Efforts of Organizations

Described below are a variety of Bicentennial activities from outside organizations. The Commission hopes that these will inspire others.

The **Constitution Project,** *a non-profit foundation in Oregon, is developing a 13-part television series on the Constitution. A Content Committee, including the Attorney General of Oregon and scholars from leading institutions across the country, is supervising the preparation of scripts.*

Topics include: the Philadelphia Convention, relationships between Congress and the President, and the evolution of the federal judiciary. The Constitution Project expects to obtain funding to provide videotapes to schools and civic organizations.

On September 8, 1985, the Masons of Nevada City, California conducted their 19th annual **Constitution Day Celebration.** *They reenact the signing of the Constitution, and hold a parade. This project began on a small scale, but has grown into the largest of its type in California.*

Col. William Lambert, organizer of the Nevada City event, has a detailed project description which he will send to any organization wishing to conduct a similar event. Write him at: 537 Coyote Street, Nevada City, California, 95959.

Convention II, *a private, educational organization with over 93 Members of Congress on its Founders Committee, will conduct its eleventh annual Constitutional Convention in the Congress, February 4-8. High school students from all over the country participate in a mock convention, ending in the House chamber. Students, parents or teachers interested in the project can call: Bob Feinman, (202) 544-1789.*

On November 8-9, the Minneapolis Metrocenter YMCA hosted a "planning retreat" for Minnesota groups interested in the Bicentennial. A representative of the national Commission participated in it.

Among the public and private organizations and individuals taking part were: Hubert H. Humphrey, III, Attorney General of Minnesota; staff of the State Supreme Court, representatives of businesses, foundations; the Humanities Council; law schools; bar associations and schools. Sponsored by **"Our Constitution" Project,** *the meeting had three main goals: public education on the Constitution, public commitment to participation in civic life, and public celebration of America's heritage of freedom and self-governance.*

The Unicover Corporation of Wyoming some years ago commissioned paintings of the **Signers of the Constitution.** *These 39 paintings were done by Lyle Tayson, a leading American portrait artist.*

Unicover Corporation has loaned these paintings to the Commission for appropriate display in the headquarters of the Bicentennial. The Commission staff will explore with the Corporation and the artist ways that these might be reproduced for groups across the country.

One of the many organizations that has quietly but effectively operated programs to support the Bicentennial is the **United States Capitol Historical Society.** *This private organization has many government leaders (both Republicans and Democrats) on its Board.*

The Society publishes an annual calendar, focusing this year on the Bicentennial. It produces commemorative medals on events leading up to the Constitution. It conducts an annual symposium in March, which now concentrates on constitutional issues, and whose papers are published. For further information about the publications and medals of the Society, call (202) 543-8919. ☐

The Masons of Nevada City, California, conducting their 19th annual reenactment of the signing of the Constitution.

Additional State and Local Commissions Established

Listed below are the changes and additions since the November issue of the Newsletter. A statewide meeting in Maryland of counties, companies, colleges and civic groups produced an outpouring of grassroots Bicentennial activities. The interest is there. The State and local Commissions simply need to find, guide and coordinate it.

The newest Commissions are in Rhode Island, San Diego County and Utah. The rest listed below are changes of names or numbers.

State	**Contact and Tel. No.**
Alabama	Walter Cox 205-324-1114
New Hampshire	(delete education)
North Carolina	Jerry Hancock 919-787-6763
Pennsylvania	Robert Wingert 717-783-3832
Rhode Island	Patrick T. Conley 401-861-3656
San Diego County	Joan Bowes 619-454-7677
South Carolina	Charles E. Lee 803-758-5816
Utah	Eldon Tolman 801-277-5444
Washington	Pelham Barnes 206-753-0177

Boston University, Center for Democracy Host Commission Reception at National Archives

The Center for Democracy, a bipartisan foundation associated with Boston University, hosted a reception for members of the Bicentennial Commission, government leaders, ambassadors and leaders of many private organizations at the National Archives on Wednesday, November 6.

Dr. John R. Silber, President of Boston University, welcomed the guests, stating that the University was pleased that the Center for Democracy was host to the reception. Dr. Silber further noted that the Center's continuing participation in the Bicentennial is important because all activities of the Center are part of the outreach of Boston University in the nation's capital. He said the University was honored to play a part in the commemoration of the genius of the Founders and the principles of the Constitution.

The President of the Center for Democracy, Professor Allen Weinstein, expressed the pride of the Center in hosting the reception to honor the Commission. Professor Weinstein said the Center will focus attention on the Constitution in the context of the Commission's work to bring about a national commemoration. Professor Weinstein noted that the attending dignitaries came to the reception at the National Archives out of "love for the Constitution itself."

Professor Weinstein concluded his remarks by noting that British statesman William Gladstone wrote to the Constitution's Centennial Committee, "The Constitution is the most remarkable piece of work known to me in modern times to have been produced by the human intellect."

The Chairman of the Commission, Chief Justice Warren E. Burger, addressed the gathering, noting that the 200th anniversary of the Constitution presents a singular opportunity for "a history and civics lesson for us all." The Chief Justice commended the Center for Democracy for providing momentum for that approach, calling for increased public and congressional support for the Commission's work.

The gathering was also addressed by Dr. Frank Burke, Acting Archivist of the United States. Dr. Burke noted that it was fitting and appropriate that a major Bicentennial event attended by the Commission Chairman and members should be held at the National Archives where the duty of preserving documents is best exemplified by the preservation and display of the Constitution. Dr. Burke reopened the Archives after 5:00 P.M. so that the Constitution and other significant documents, such as the Declaration of Independence and the Magna Carta, remained on display for the reception guests.

Frank N. Fahrenkopf, Jr., Chairman of the Republican National Committee and a Vice President of the Center for Democracy, also spoke. He stressed that "the Constitution is a subject that is beyond partisanship. I know I speak for my Democratic colleagues who are also associated with the Center, in saying that we all join in the commemoration of the Constitution, which creates the framework of freedom in which we sometimes disagree on specific issues."

Distinguished Guests

Among the distinguished guests were: Representative Chester G. Atkins, Secretary of Education William Bennett; Commissioner Frederick K. Biebel, Commissioner Lindy Boggs, Representative Edward P. Boland; Representative Dick Cheney; Commissioner Lynne V. Cheney, Commissioner Philip M. Crane; Representative Dante B. Fascell; former Ambassador George Feldman.

Also present were: then-Secretary of Health and Human Services Margaret Heckler; Professor A.E. Dick Howard, Chairman of the Virginia Bicentennial Commission; Commissioner Edward M. Kennedy; Li Fenglou, Deputy Director, State Archives Bureau, People's Republic of China; Commissioner Harry McKinley Lightsey, Jr.; Chief Judge Howard Markey, Federal Circuit; Attorney General Edwin Meese, III; Judge Abner Mikva, D.C. Circuit; Director of National Park Service William Penn Mott, Jr.

Also present were: former Senator Jennings Randolph; His Excellency Meir Rosenne, Ambassador of Israel; Judge Antonin Scalia, D.C. Circuit; former Representative Fred Schwengel; Senator Paul Simon; Judge Kenneth Starr, D.C. Circuit; Dr. Gregory Stiverson, Director, Maryland Office for the Bicentennial; Commissioner Ronald H. Walker; His Excellency Guenther van Well, Ambassador of the Federal Republic of Germany; William H. Webster, Director of the FBI; Supreme Court Justice Byron R. White; and His Excellency Sir Oliver Wright, Ambassador of the United Kingdom. □

Above, left: His Excellency Sir Oliver Wright, Ambassador of the United Kingdom; right: Chairman Warren E. Burger. Below: Dr. Allen Weinstein, President of the Center for Democracy.

Notes From the Founders

On 22 November, 1785, the Maryland Legislature passed a Resolution that ultimately led to the Philadelphia Convention. Virginia responded on 21 January, 1786, asking all States to meet in Annapolis. That meeting in 1786 led to the Philadelphia Convention in 1787.

From the Maryland Legislature

The first two paragraphs of the Maryland Resolution confirmed the first Interstate Compact which ended the Oyster Wars between Maryland and Virginia.

The other paragraphs provided a sound currency, a sound basis for international and interstate trade, and a "commission" to resolve differences.

The third paragraph made "...foreign gold and silver coins..." the currency of those States. Therefore, standard European coins became the convenient basis of interstate commerce.

The fourth concerned "...damages on foreign bills of exchange protested...." It provided a common standard of proof, making such bills equal to contracts in writing, signed by the parties. The fifth said that, "...the draughts by the merchants of either state..." should require the same damages for nonpayment.

The sixth required that "...duties on imports or exports...be the same in both States...," and established a joint commission to regulate duties and confer on commerce between the States.

The last and critical paragraph said that the above resolutions, "should be communicated to...Delaware and Pennsylvania, and that they be requested to nominate commissioners...," to meet and make joint decisions on laws, commerce, and taxes in all these States.

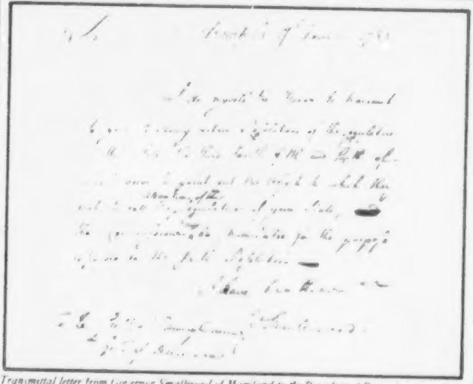
From the Delaware Legislature

Fully, Freely & Entirely, the Delaware Bicentennial Newsletter, contains this tidbit from 1786:

"An ACT for the suppression of idleness and immorality. WHEREAS it has been too much the practice,... for people to assemble...under the various pretenses of horse-racing, foot-racing, cock-fighting, shooting-matches,&c...with intent to vend...strong liquors; thereby promoting idleness, vice, and immorality, to the great prejudice of religion, virtue and industry."

The Act provided for a ten pound fine for anyone promoting such activities to increase his sales of "wine, rum, brandy, beer, cyder,..." at such events.

The Delaware newsletter concluded that: "Fortunately, Delawareans have outgrown any inclination towards vice in the last 200 years." ☐



Transmittal letter from Governor Smallwood of Maryland to the President of Pennsylvania and the Governor of Delaware. Photo courtesty of the Archives of the State of Maryland.

Hill Testimony On Enabling Legislation

On December 5, 1985, supporters of the Commission testified before a House Committee on important changes in its legislation.

H.R. 3559, now before the House Committee on Post Office and Civil Service, includes: approval for adequate staffing, permission for individual gifts up to $100,000 and corporate ones up to $1 million, and extension of the Bicentennial through 1991. The Chairman of the Committee, Rep. William D. Ford (D., Mich.), said that the enabling legislation should be promptly amended.

The Chairmen of the key Subcommittees are Rep. Robert Garcia (D., NY) of Census and Population, and Rep. Mary Rose Oakar (D., Ohio), of Compensation and Employee Benefits. Both met with Staff Director Mark Cannon before the hearings. In opening the hearing, Chairman Garcia said that the proposed amendments "...will enhance the celebration of the Constitution and [its] central role in our nation."

Rep. Lindy Boggs (D., La.) and Rep. Philip Crane (R., Ill.), who are Commissioners and sponsors, testified for the bill. Rep. Boggs stressed that the proposed amendments "...will [allow] a celebration worthy of the Constitution." Rep. Crane said "prompt attention [is needed] so the Commission can...undertake the enormous task before it."

Director Cannon testified in detail on all aspects of the bill. He noted that, compared to other celebrations, the time is short and the need is great. Another witness strongly supporting the changes was Dr. Sheilah Mann, Director of PROJECT '87, a joint effort of the American Historical Association and the American Political Science Association, dedicated to a thoughtful commemoration of the Bicentennial. She said that it should "...leave a legacy of extensive...knowledge about American founders, the principles of American democracy and the promise of American life."

The Subcommittee report of the bill may come as early as February 6. ☐

We the People

Bicentennial Minutes Proposed by CBS

CBS advised the Bicentennial Commission that it is considering the broadcast of Bicentennial Minutes in prime time, from September, 1986 through 1987, and possibly longer.

The Commission is pleased that CBS probably will play a major role in the commemoration of the Constitution. The Commission hopes that others will undertake similar projects.

The Constitution Bicentennial series would replace the highly successful CBS American Portrait series which has been well received both by audiences and by advertisers.

The new effort will be similar in format to the successful American Portrait series, and in content to the original "Minutes," developed in 1976 by CBS for the Bicentennial of the American Revolution. The CBS Bicentennial Minutes should be an effective communication tool in helping the Commission fulfill its primary goal—to educate the public on the Constitution.

Members of the Commission

WARREN E. BURGER, Chairman, Chief Justice of the United States

FREDERICK BIEBEL, Executive Vice President, International Cooperation Fund

LINDY BOGGS, Member of Congress, 2nd District, Louisiana

HERBERT BROWNELL, attorney, former Attorney General of the United States

LYNNE V. CHENEY, Senior Editor, Washingtonian Magazine

PHILIP M. CRANE, Member of Congress, 12th District, Illinois

WILLIAM J. GREEN, attorney, former Member of Congress, former Mayor of Philadelphia

EDWARD VICTOR HILL, Pastor, The Mount Zion Missionary Baptist Church, Vice President of the National Baptist Convention, Inc.

CORNELIA G. KENNEDY, Judge, United States Court of Appeals, Sixth Circuit

EDWARD M. KENNEDY, U.S. Senator, Massachusetts

HARRY M. LIGHTSEY, JR., President, College of Charleston, Charleston, S.C.

WILLIAM LUCAS, Chief Executive Officer, Wayne County, Michigan

EDWARD P. MORGAN, attorney, former Chief Inspector, F.B.I.

BETTY SOUTHARD MURPHY, attorney, former Chairman, NLRB

THOMAS H. O'CONNOR, Professor of History, Boston College

PHYLLIS SCHLAFLY, President, Eagle Forum

BERNARD H. SIEGAN, Distinguished Professor, University of San Diego Law School

TED STEVENS, U.S. Senator, Alaska

STROM THURMOND, U.S. Senator, South Carolina, President Pro Tempore of the United States Senate

OBERT C. TANNER, Chairman, O.C. Tanner Company, Professor Emeritus of Philosophy, University of Utah

RONALD H. WALKER, Partner, Managing Director, Korn/Ferry International

CHARLES E. WIGGINS, Judge, United States Court of Appeals, Ninth Circuit

CHARLES ALAN WRIGHT, William B. Bates Professor of Administration of Justice, University of Texas School of Law

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION, 734 Jackson Place, N.W., Washington, DC 20503 ● (202) 872-1787

Please pass this newsletter on to others who are interested in the Bicentennial, and feel free to copy and reuse any of this information as you or your company or organization choose.

For the Bicentennial to be a success, hundreds of thousands of citizens, and thousands of businesses and organizations will have to get involved. To take your first step in being part of the 200th anniversary of the Constitution, fill out and return this form:

Name

Organization

Title

Address

City

State

Zip Code

Phone (Office)

(Home)

☐ Please add me (us) to the mailing list for the Newsletter.

☐ Please tell me (us) how to assist in the ☐ national, ☐ State Bicentennial activities.

☐ Enclosed is information about plans for the Bicentennial that you may not have, and that might be of interest to others.

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PERMIT G-261

Mr. SMITH. Here to testify is the Director, Mark Cannon, in a different capacity than you appeared before.

Do you have a statement?

STATEMENT OF MARK CANNON, STAFF DIRECTOR, COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

Mr. CANNON. Thank you, Chairman Smith and Congressman Dwyer. Let me express appreciation for this opportunity to testify and also to say that, in the different capacity in which I've watched this subcommittee over the years, I've been highly impressed by the interest in substance that you've all shown and the conscientious way you've carried out your duties. It's my pleasure to be with you.

Mr. SMITH. Thank you.

Mr. CANNON. America has largely been cut off from its heritage and faces a crisis of ignorance. A former U.S. Commissioner of Education, Ernest Boyer, said that, "Unless we find better ways to educate ourselves as citizens, we run the risk of drifting unwittingly into a new kind of dark age." Polls in recent years have shown that nearly one-half of all 17-year-olds could not name their own Representative or their Senators, and 40 percent thought that the President could declare an act of Congress unconstitutional.

We have a member of my Commission here——

Mr. SMITH. Good morning.

Mr. CANNON. I understand that you have to get back to chairing another committee?

Mrs. BOGGS. Yes.

Mr. CANNON. I will defer to Congresswoman Boggs.

Mr. SMITH. Certainly. Glad to have you.

Mrs. BOGGS. Thank you very much, Mr. Chairman, for allowing me to come as a member of the Commission and to thank the committee for your interest in the Commission that you've evidence in the last year.

I think that Dr. Cannon has been before you previously and you know the very explicit manner in which he sets out his requests. I think the requests are modest, that they are really the least that the Commission can function under, given the short amount of time and the vast amount of work that is required of the Commission to accomplish before the 1987 celebration.

We are also, of course, interested in the long-lasting celebration accounts, where we hope, of course, to involve the whole citizenry and especially the young people of the nation into an understanding of the Constitution and what it has provided to the country and to them specifically and to generations yet to come. It is a Commission that is dedicated to being able to bring this message to the country and to the rest of the world, and we have many, many people who have volunteered their time, many groups throughout the country who are cooperating with the Commission. The Commission, in turn, is cooperating with other groups that have formed, and commissions in the States that have formed. And I think that the request for the amount of money that they're going to need as a Commission is very realistic, and I would hope that the committee could honor their request.

I'm sure that Dr. Cannon can answer any specific questions that are required of him, and I simply want to compliment him and the other staff members and the commission members for their devotion to the tasks to which they've been assigned, and also to their realization that we're living in a Gramm-Rudman atmosphere and that we have to operate on as slim a budget as is possible in order to do the job that is required of the commission.

Mr. SMITH. Are you going to have a big celebration in Louisiana, too?

Mrs. BOGGS. Well, I don't know. I'm not quite sure we've joined the Union yet.

[Laughter.]

We have a commission in Louisiana that has just recently been appointed, and the mayor of our city has just recently appointed a commissioner, and there's great excitement in the Louisiana Bar Association and in the universities and colleges and in various high school groups and people who ordinarily sponsor debates and essay contests and patriotic organizations and so on. And I think that we will have a very credible celebration of the bicentennial.

Mr. SMITH. Between all of this and the Super Bowl and Mardi Gras, 1987 will be the year of celebration.

Mrs. BOGGS. That's right.

Mr. SMITH. The whole year.

Okay. Thank you very much.

Mrs. BOGGS. Thank you.

Mr. CANNON. It is necessary, then, to educate anew every generation about our constitution system. To paraphrase Alberta Siegel, a psychologist at Stanford, every civilization is only 20 years away from barbarism, for 20 years is all we have to accomplish the task of civilizing the infants, who know nothing of our language, culture, religion, values, or customs.

The Commission, then, has developed an approach to try to stimulate State, local, Federal, and private agencies to engender a myriad of activities which will all result in helping the citizenry attain a greater awareness, knowledge, understanding, and appreciation of the Constitution.

We've divided the themes into three periods. The first will be '86 and '87 for the writing of the Constitution. The second will be '88 for the ratifying of the Constitution and the great debates over systems of government that took place during that period. The third is '89, establishing a Government under the Constitution, and, of course, this pertains to the 200th anniversary of the first Congress, the inauguration of George Washington as the first President, the establishment of the first executive departments, and the creation of the Federal judiciary, as well as the introduction of the Bill of Rights and Congress' action on it, though the ratification took through '91.

To date, the commission has met five times and has moved ahead as expeditiously as a new group of people—who, until two months ago, didn't really have any significant appropriation—can do. We now have 22 State committees created and, Mr. Chairman, I would like to let you know that thus far we have not heard that Iowa has created their commission, though in the previous bicentennial, Iowa had apparently the highest percentage of its communities as bicentennial communities. Many of them have new legislatures that are meeting right now, and we have a number of others that are in process. Just today, Massachusetts is creating its commission and your previous speaker, Chief Justice Hennessey, will be the chairman.

The Chief Justice has sent a letter to 835 mayors and spoken to 200 of them here in Washington. We've prepared a generic legislative bill, executive order, and proclamation. We're having an international meeting next week with representatives of 70 major public and private organizations that deal with overseas activities. We have contacted all of the television networks—PBS and many other broadcast and written press facilities—and are finding that we can engender considerable interest after we begin to talk about it with them.

We are working on a national bicentennial essay contest. We are collaborating with many groups; one group is developing, right now, a six-week unit of which there is nothing like it, in the 10th to 12th grade area—Charles Quigley of Law in a Free Society. We've had him testify at every one of our major meetings, about how they are doing. They plan to add to this a debate contest and a quiz contest, with the whole class involved, so even the less-interested students are pressured by the more interested to get involved.

There are two other private organizations that regarding which the Commission has voted letters of encouragement. One wants to have a Trivial Pursuit type game, where classes would divide in half and deal with detailed questions on the Constitution, and the other a musical competition.

We are moving ahead with our staff even though, as I say, we've had a significant budget for less than two months. We now have, being put on the payroll, 21 employees and we have 10 detailees from other agencies. This will grow fairly expeditiously, but carefully.

In sum, the commission has established itself as a working agency and is embarked in significant ways on its mission. It has obtained its headquarters and other space; acquired furnishings for its offices; written, published, and disseminated thousands of copies of its first report; developed its mailing lists; published and widely disseminated two issues of the newsletter; set up a filing system; responded to hundreds of inquiries by phone and letter; organized the commission into committees; held five meetings, and approved some major events toward the bicentennial.

Our resources are limited, and we will continue to husband them very carefully. By contrast, in today's dollars the Federal appropriations for the bicentennial of the Declaration exceeded $200 million. If you add to that the proceeds of royalties from the logo and the sales of the commission's and administration's medals, the amount reaches $250 million. Neither of the latter are currently available, legislatively, to our Commission.

Consequently, we plan to use our staff heavily to stimulate, encourage, and promote educational activity among other organizations. We expect them to be matches that ignite larger fires. We find that the complexity, though, of interchange with groups about how they can meaningfully commemorate the Constitution, is time-consuming and complex. We're looking for a particular breed of staff people who are knowledgeable about our heritage, who are able to promote, who are creative, who know how to develop practical programs. It's an unusual type of person; we've been finding some excellent ones and we are bringing in more.

There have been well over 500 letters, calls, and phone contacts and personal interviews with Governors in their offices, as an example, and yet we still have less than half of all the States officially organized, which illustrates the enormous amount of energy that must go into the effort to obtain action, and then to guide that action once the commissions are created. Just as an example, we have worked with a trade association which has 50,000 people come to its annual meeting in Dallas; as a result of this, they adopted a resolution giving their full support and their own activities to the bicentennial. And they were responsible for the publication of the calendars that we put out.

Mr. SMITH. How much money comes with that?

Mr. CANNON. They gave $15,000 thus far. They're not clear exactly what they'll do, but they say they're going to have an important part of their program next year on the Constitution. They want to meet with us; in fact, they have been and will continue to do so. This question is difficult—what kind of a program can you put on that will cause thousands of home builders to say, "That was a great program," when you're trying to deal with the Constitution? If you're not careful, it can sound dull and technical, whereas if you show it in its grandeur, it can be enormously stimulating intellectually. For these different groups that have different interests and professional backgrounds, the question from each of them is, "We want to help, but how can we do this in a way that we'll look good to our own constituents when they come and hear a program about the Constitution?"

We feel that the time spent with these groups is well spent. It's engendering terrific interest on their part, and will have a multiplier impact as they fan out.

I would like to say in conclusion, it is my personal conviction that with the full appropriation which has been requested, the Bicentennial Commission is going to be able to help ignite enough fires so that more learning will take place about the subject being commemorated by our citizenry as a result of this commemorative activity than has ever occurred in any previous commemoration in our history. And by your full support, you can make that happen.

I'd like to talk for just a moment about the major categories of the budget. As I said, by contrast with the previous bicentennial, it's a modest amount, but we're willing to use that and live within it and try to make it highly effective.

There are four items in the budget which exceed $1 million. I'll talk briefly about each.

The first deals with personnel, which obviously is the major element of the budget. I've already mentioned our strategy. Our strategy is to get excellent people and then to have them ignite fires with private and public agencies. We had, just on February 12th, a meeting with over 100 representatives of Federal agencies. It was exciting to see some of those who are now moving down the track, presenting their programs, and others wanting to learn who were there for the first time, who didn't know yet at all what they could do and were looking for ideas. We're finding enormous interest as we work with these groups, but it often takes five telephone calls to an agency to get them to appoint somebody and get that person to a meeting. So personnel, then, is a major item.

Second, transportation and travel. Now, here we have the fact that this is supposed to be a national celebration, not just one confined to the 13 States that created the Constitution. We've already met in Washington, Salt Lake, and San Diego as a whole Commission. We plan to meet in Annapolis in September to help the commemoration of the Annapolis Convention in its 200th anniversary, and there will be events taking place in Philadelphia, probably Boston, New York, and so forth.

In addition to this, we know that we are only going to have effective action at the State and local levels if we have people fanning out which, once we get our staff, we'll be able to do, and working with them on a personal basis. When our letter is just one of 300 sitting on somebody's desk, it's hard to get their attention; but personal contact can do that.

Furthermore, we do have a legislative requirement for international activity, and I think the American Constitution has been our greatest export in history. We will be working at bringing people here for conferences and some travel overseas.

The next object classification that exceeds $1 million is printing and reproduction. Here we have extensive plans for newsletters, brochures, posters, calendars, copies of the Constitution, booklets, pamphlets, books, plays, musical pieces, documentary materials, et cetera. We've been living thus far on borrowed time, to some degree; for example, the National Forum had a special issue on "Toward the Bicentennial with the Constitution" and they gave us 15,000 copies at the end of their dissemination to the American Bar and to their own membership and to teachers. And so we've been using those. They were all free to us, but soon we have to start paying for our own things.

The final item that exceeds $1 million is "Other Services." This includes, to some degree, renovations and so forth for our own offices and, to a substantially larger degree, it will include special projects that the Commission chooses to adopt after very careful staffing and consideration in the future.

Mr. Chairman, again, it's a pleasure to be with you and I'd be happy to try to answer any questions, if there are any.

Mr. SMITH. I can't help but to think that if Cesar Rodney had not ridden all night from Delaware to Philadelphia to cast that deciding vote, we could have avoided all this.

[Laughter.]

Mr. CANNON. We could have avoided it all, but we might be French and British and Spanish colonies.

It's just the same as in New York. New York elected a ratifying convention that was almost two and a half to one opposed to the Constitution; and when those great examples of heroic commitment, Hamilton, Jay, and Madison went there and saw the vision of what America could be, and they wrote the Federalist Papers and persuaded these people—the first Federal Paper was written by Hamilton all night, on a boat, coming down—just ran it over to the publishers to get it published. And with that kind of vision and commitment, they succeeded, finally, with a margin of three votes only. And what kind of a country would this have been if New York—

Mr. SMITH. It's a good thing they didn't have the printing office we use now; it would have taken two months.

[Laughter.]

We passed a farm law December 17th and we just got the printed copy last week.

Mr. CANNON. But I would like to say that the staff and the commission feel the same commitment that the founders felt. We've got a lot of problems, but we're deeply committed to trying to make this an enormously effective commemorative event.

Mr. SMITH. You're planning a big thing, it doesn't just go on for one year. What do you anticipate your appropriations request to be after fiscal '87?

Mr. CANNON. The President's budget provides that this $12 million will be the total appropriation.

Mr. SMITH. You're not going to make another request in fiscal year 1988, then?

Mr. CANNON. I can say at this stage that we do not have plans that would require that we go beyond that.

Mr. SMITH. How do you handle the borrowed personnel? Does your budget pay for borrowed personnel from other agencies?

Mr. CANNON. Our statute permits people to be detailed by agencies at their discretion without reimbursement. Now, to be honest, what we're finding is that in the Gramm-Rudman environment, people are saying, "We're going to have to dismiss employees and we can't afford to loan any."

Mr. SMITH. So the cost is really the cost you have, plus the cost of these personnel that are being detailed? Do you have any idea what that will be? How many do you anticipate that you will be getting detailed to you?

Mr. CANNON. This is hard to estimate because of the difficulties we're beginning to encounter. We found the agencies were sympathetic with our needs when we essentially had no budget and were living from hand to mouth, borrowing and begging. But we're finding a different atmosphere now.

If you just want my estimate, I would be surprised if we ever exceed 20 people, and I'm not at all sure we'll ever get 20. It's just going to have to be negotiated. Occasionally we find an agency that is very sympathetic and is trying to help out, where often it overlaps their own mission.

Mr. SMITH. Are you purchasing office equipment or are you renting it?

Mr. CANNON. Thus far, we're borrowing.

Mr. SMITH. Borrowing?

Mr. CANNON. We have purchased two computer typewriters. We are in the process right now of making a decision as to expansion of that. We have been told that we may get some by contribution, but we've been told that over a period of several months and thus far we haven't seen any.

Mr. SMITH. If you bought it, what would you do with it when this is over?

Mr. CANNON. Well, when the Commission terminates—which you know, right now, under the present statute is at the end of 1989—the Garcia subcommittee has passed out a bill that does a number of things, including extend this through the Bill of Rights ratification, 1991, in case that's passed, which we don't know. But whenever the end is, then that would return to the Government, whatever we had purchased.

Mr. SMITH. As surplus equipment?

Mr. CANNON. As surplus equipment.

Mr. SMITH. Are you now saying that you expect a considerable amount of these activities to run through 1991?

Mr. CANNON. The issue of the extension is not something the Commission has ever requested. That's a Congressional initiative. I think a lot of people in the Congress felt that the Bill of Rights was being neglected, and that they thought the Commission should go two more years to cover the ratification of the Bill of Rights. That's a Congressional decision; whatever the Congress decides, the Commission will do.

Mr. SMITH. We have a program in the Department of Education that is a small program that no one in the administration has ever requested any money for. Mr. Dwyer and I serve on that subcommittee and we always manage to put a little money in for it. We encourage the development of resource materials to be used so high school teachers, in effect, teach civics. They invite lawyers and local officials and others to come to the class and teach government. You said something earlier that reminded me of this, I have found—and members of our subcommittee have found—that there are so many young people today that really don't know the difference between the structure of our Government and other governments in the world. They just don't have any real idea of what the difference is. And that's the purpose of this program. At Drake University they get a grant to help train some of these teachers and to help develop resource materials.

It seems to me that there's a relationship between these two that should be developed.

Mr. CANNON. Very much so. I'm very well aware of your stalwart role in supporting law-related education and civic education and your keen interest in this. And I think the whole public can be appreciative of this.

For example, I mentioned Charles Quigley as one example; there are other things going on here—but his is, in my view, an extraordinary approach. They have developed a draft of a six-week unit on the Constitution for the 10th to 12th grade, and there is nothing like it in the textbooks. There is nothing like it. People will know at the end of this what the difference is between an open and a closed society, and might not just take for granted something that is a very fragile system of government that we were fortunate enough to be able to create two centuries ago and have it preserved for this long. But it won't be preserved indefinitely unless there is a recognition of the fragility of it and a vigilance about maintaining it. And when young people see that difference, then they're going to be much more concerned about being good citizens, whichever party they choose to work through in the future.

So we're keenly interested in that, and we've been following what they have—as I mentioned, we've had him testify several times to the commission. We have not yet taken any official action, but we're following it and encouraging it very closely. For example, a week ago he met with representatives of 20 school districts from around the United States—Congressional districts, because he's working on a Congressional district basis—and we allowed him to meet in the Supreme Court for his first meeting. The Chief Justice went in and talked to the teachers and the supervisors who were there, and was very impressed with them. They had a terrific group of people—just really animated, highly experienced in this area—and we see the possibility of that program spreading over the whole nation if it ultimately gets the financing that it will need.

Mr. SMITH. I'm not sure where this works into the whole thing. We've seen this example in the Philippines lately. We spent 40 years over there, and during that 40 years we lectured to them—"Have elections; let the majority rule." We set up no semblance of local government, no ability of local governments to raise money, hire their own police; depend on the central government. And it's caused problems ever since. As soon as World War II was over, anyone who could get a jeep and a machine gun owned a barrio. The central government couldn't furnish enough soldiers to go around and take care of all of those problems. There's a lesson to be learned in the difference in the way we set up local government structures, that is, the local ability to handle local problems, and what we've been preaching around the world. And I hope this gets some attention. I don't know just how you do it, but this illustration is something that helps us to cherish what our forefathers had the foresight to do.

Mr. CANNON. That's right. What we hope is that young people—particularly, but all people—are going to come out with a much better understanding of the nature of a federal system. When they do, they hopefully will take more interest in their local government because they'll realize that there still is a—that is still a very important part of government. We don't have a unitary system like France has.

Mr. SMITH. Mr. Dwyer?

Mr. DWYER. Thank you, Mr. Chairman.

On the donations, what is the total amount of donations you have received to date?

Mr. CANNON. Approximately $160,000.

Mr. DWYER. Are you actively soliciting donations?

Mr. CANNON. What we have done is basically shake down our friends. I think—the head of the National Home Builders is somebody I've known for 20 years.

Mr. SMITH. Iacocca is out of a job now; why don't you get him? [Laughter.]

Mr. CANNON. Well, we're not doing it in any deceptive way; we're not doing it in any conflict of interest way. We're being very careful. But for the major fundraising, the Commission itself has taken that responsibility; that's not the staff's responsibility. So we were able to get through this period when we essentially had no money, and survive and thrive, basically by working through our friends. And I have to say Ron Mann, our deputy, is particularly good at shaking down his old friends.

But we now—in the first place, you can only do that so long; otherwise people think you have leprosy when they see you coming—and so we now have an appropriation. We are now moving into that, and the commission itself will pursue the question of the larger fundraising.

Mr. **Dwyer**. Do you think you might hire a professional fundraiser?

Mr. **Cannon**. Again, this really is a decision that the commission is going to make. Herb Brownell is working on the process of trying to find a chairman of the fundraising committee that would be a distinguished person; and whether they would look for voluntary assistance or would hire somebody, really, is going to have to be their decision.

Mr. **Dwyer**. Thank you, Mr. Chairman.

Mr. **Smith**. What about the open meetings controversy?

Mr. **Cannon**. Well, this question came up with the Garcia subcommittee, and we have given a written answer on this. But let me say—you will be interested to know—that at our last meeting, it was voted that the question of the rules governing the holding of meetings would be reviewed by the executive committee. And I think that they're in process of considering constructively the best approach to that.

Let me say, just to make one thing different, you have used the right word on open meetings. Some people have said "secret" meetings. I want to assure you all that there is nothing secret about a meeting with 40 people in it, with members from all geographic areas, people from different political parties, people as diverse as Senator Kennedy and Phyllis Schlafly, people of all age groups, a lot of staff members of Congressmen. The open invitation we always extend to any Congressman to sit in, whether a member of the commission or not—the invitation which has been accepted by Richard Baker, the Senate Historian, and by the House Historian to sit in—so it's not like there is anything secret. But there still is the question of under what circumstances and by what method it would be decided when to have a quasi-executive session.

Mr. **Smith**. Who would want to listen to the conversation that all those people would have?

Mr. **Cannon**. You may be amused at this, but the UPI reporter who started this was told by someone, "I give you the old Irish curse. I hope you get your wish."

[Laughter.]

Because then he would have to sit in very tedious discussions.

Mr. **Smith**. I don't think it will be very secret, anyway. I don't see any reason, really, for closing it. When you get that kind of group together, it's all going to become public.

Mr. **Cannon**. That's right. There probably are some delicate issues that may occur at times relating to personnel. There are some delicate issues regarding official recognition requests in which, in some cases, they may not be given or they may be tabled.

And so there are some matters that, just from a human standpoint, you may want a certain amount of—

Mr. SMITH. Now, what about the sequestration of $549,000? What does that do to you?

Mr. CANNON. Well, of course, we're a little different than agencies that are already fully staffed. What it means is, we will not be able to spend as much as we would have liked to have spend, but it doesn't mean "cut back" in the sense of a full operating agency where they might have to dismiss some people or cut back commitments that they had already made in a partial way.

Mr. SMITH. There's a deadline on your activities. You can't put them off until another year?

Mr. CANNON. That's right. And we're struggling to move as carefully as possible, in terms of the expenditure of the public's dollars, as well as to move as expeditiously as possible. And I've been very careful thus far, even angering some of my staff, because we want to make sure that we get the maximum benefit out of all of the money that the public is kind enough, through you, to give us. But we also are now moving ahead on such things as making ourselves function effectively by having word processors. We're moving ahead very rapidly on an array of areas like that.

Mr. SMITH. Well, how do you absorb that $549,000, though? I mean, what will be reduced?

Mr. CANNON. The—if you want us to give a specific on that——

Mr. SMITH. Will you take it all out of one thing, or out of all categories?

Mr. CANNON. I would predominantly take it out of the special projects area. This is an area where there is no demand at this time. I am confident, though, that as the commission overcomes its caution and sees enough breadth of the projects available, that the time may come when it may act very rapidly about wanting to move on certain kinds of projects. But at the moment, I would say predominantly there.

Mr. SMITH. We'll have some more questions about the details of your budget, and we'll be sending those to you.

Mr. CANNON. Fine.

Mr. SMITH. Thank you.

Mr. CANNON. Thank you very much.

RESPONSES OF DR. MARK W. CANNON TO QUESTIONS FROM SUBCOMMITTEE MEMBERS

Set forth on the following pages are the responses of the Commission on the Bicentennial of the Constitution and Dr. Cannon to the written questions transmitted from members of the Appropriations Subcommittee on Commerce, Justice, State, The Judiciary and Related Agencies. In each instance the response is preceded by the written question. They are grouped in the order received, i.e., questions from Chairman Smith are listed first, followed by questions from Representatives O'Brien and Early.

FROM: The Chairman, Representative Neal Smith:

QUESTION NO. 1:

What coordinating activities have you begun in fiscal year 1986 in order to provide a balanced program among federal agencies and within state celebration activities?

ANSWER:

Within Federal agencies, the Commission has helped organize a Federal Interagency Task Force of liaison representatives to plan internal and external commemorative projects and programs. Attached to these Answers (Attachment A) is a list of the agencies and departments and the projects now being planned.

The Commission began this coordination work in November 1985 with a letter from the Chief Justice to all department and agency heads asking for the appointment of bicentennial liaison persons to work with the Commission. This letter was followed in December 1985 by an invitation to all agencies and departments to send representatives to a coordination meeting at the Commission's headquarters. We followed up that meeting with a letter asking them to submit their commemorative plans to the Commission.

We held a second meeting in February to which 72 agencies sent about 120 representatives. Each agency representative described their agency plans and any particular emphasis to be given with respect to Constitutional bicentennial activities. Another such coordination meeting is scheduled for April.

QUESTION NO. 2:

How do you plan to coordinate your activities with those of the Judiciary and their budget request for fiscal year 1987?

ANSWER:

The Chairman of the Bicentennial Committee of the Judicial Conference, Chief Judge Howard T. Markey, is invited to all Commission meetings and has attended four of the five meetings. In addition, Judge Markey maintains aclose liaison with and reports to the Chief Justice, the Chairman of the Commission.

The Judicial Conference programs relate to the Judicial Branch, just as the Congressional programs will relate to the Legislative Branch, differentiating both of them from the general commemoration.

Thus, it is anticipated that the Federal Judiciary's activities will concentrate upon the substantive legal principles embodied in the Constitution and celebrating the passage of the Federal Judiciary Act in the First Congress on September 24, 1789. All proposed bicentennial programs and activities involving the Federal court system will be referred to the Bicentennial Committee of the Judicial Conference.

The Commission expects to be kept informed of all bicentennial plans of the Judiciary so as to avoid overlap or conflict in planning. There is no authority for nor has there been any specific coordination of budget requests.

QUESTION NO. 3:

How many people do you have on board at this point?

ANSWER:

Twenty-one full-time permanent employees and two temporary employees (as of March 3, 1986).

QUESTION NO. 4:

Do you have any employees detailed on a reimbursable or nonreimbursable basis from other agencies assigned to the Commission?

ANSWER:

Yes. At present, the Commission has 10 employees on detail from other Federal agencies or departments. Of these, eight are detailed for one year or less. All are on a nonreimbursable detail under the authority of section 5(e) of Pub. L. 98-101.

QUESTION NO. 5:

Do you anticipate that you will utilize all of your fiscal year 1986 appropriated funds and have no carryover balances for 1987?

ANSWER:

No. All of the funds appropriated for FY 1986 were appropriated to be available until expended, i.e., no-year money. The expectation was and is that the FY 1986 appropriations would not be fully expended during Fiscal 1986 but rather would serve, in part, as carry-over funding for further commemorative planning and programs in Fiscal 1987 and beyond.

Under Table 1 (page 5) of the budget justification materials submitted by the Commission to the Subcommittee, on Program and Financing, we show an estimate of $6,387,000 as a carry-over balance to Fiscal 1987 (see Relation of Obligations to Outlays). This estimate must now be reduced, as shown in Table 4, page 8, by $274,000 as a result of reductions made pursuant to Pub. L. 99-177, reducing the net estimated carry-over for FY 1987 to $6,113,000.

QUESTION NO. 6:

What preliminary planning and developing have you done for activities appropriate to commemorate the bicentennial of the Constitution?

ANSWER:

The preliminary planning and developing which has been done by the Commission as preparatory to commemorative activities of the bicentennial of the Constitution are described in considerable detail in the prepared Statement submitted to the Subcommittee. (See pages x through xvii.) In addition, I summarized parts of this in my testimony to the Subcommittee on February 12, 1986. (See pages 27-31 of the transcript.)

Subsequent to that testimony, we are pleased to advise the Subcommittee, the Chief Justice was invited to and did address the Nation's Governors, meeting in Washington, D.C., on February 23, 1986. He urged all States to create State Bicentennial Commissions; his address was enthusiastically and favorably received by the Governors.

Also, beyond the activities listed in the Commission's prepared Statement, we have been making progress with the United States Postal Service and its Citizens' Stamp Advisory Committee. The Commission and the Postal Service have mutually agreed upon a series of 26 new stamp issues to commemorate significant bicentennial events associated with the Constitution, beginning in 1987 and extending to 1992. Remaining to be determined, is whether a stamp will be issued depicting the Commission's Logo, and the exact time that a stamp should be issued commemorating the bicentennial of the passage of the Northwest Ordinance by the Continental Congress (on July 13, 1787). A list is attached of the events agreed upon by the Commission and the Postal Service as worthy of a new commemorative stamp (or postal card). See (Attachment B to these Answers.)

QUESTION NO. 7:

Have you established yourself as the central coordinating and focal point for bicentennial celebration activities?

ANSWER:

I believe it is now clear among all federal agencies and departments, States, counties and cities of the nation that the central coordinating body, and a focal point for celebrating the Constitution's bicentennial is this Commission. On nationwide radio, TV coverage and the print media the roles of the Commission and its Chairman, the Chief Justice, are being given increasing prominence. This is also true among more scholarly publications, newsletters, columns, etc., and among those private organizations that have, during recent years, played a part in bringing about the creation of the Commission and in doing the earlier Constitutional research and planning for the bicentennial.

QUESTION NO. 8:

What level of communication and distribution of information have you provided to those agencies and governments that might participate?

ANSWER:

A series of publications have provided communications to date. These include the distribution of two issues of a printed newsletter (totalling 30,000 copies) and a widespread distribution of about 15,000 copies of the Commission's First Annual Report. In addition, about 19,000 copies of a special Bicentennial Calendar have been distributed and almost 10,000 copies of the National Forum's special issue on, "Toward the Bicentennial of the Constitution." The Chairman has written directly to all Governors requesting State involvement, and I would estimate that there have been about 800 Commission contacts with Governors and their staffs.

The Commission has also sent a variety of printed materials to a very broad segment of the organized groups in America, including trade associations, unions, civic groups, professional societies, etc. (See pages xiv - xv) of the prepared Statement, and also my oral statement at page 27-28 of the transcript.

QUESTION NO. 9:

Your Other Services account for fiscal year 1986 totals $5,000,000 and for 1987, $3.5 million. What specific other services in your object class schedule identified with this $8.5 million will be purchased during these two fiscal years?

ANSWER:

"Other Services," as a budget classification, is described in some detail on pages 20-21 of the Commission's justification materials submitted to the Subcommittee prior to the hearing on February 12, 1986. Also, it was discussed briefly in my testimony before the Subcommittee, at page 34 of the transcript.

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In addition to the items discussed and specific proposals mentioned in the Commission's prepared Statement, we believe it important to note again that the Commission has not yet determined what particular bicentennial projects will be undertaken on behalf of the entire Federal Government, from among many ideas, as part of the bicentennial. But the mandate of the Congress on this is clear: Pub. L. 98-101, section 6(a)(1). reads--

> "The Commission shall - (1) plan and develop activities appropriate to commemorate the bicentennial of the Constitution, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education."

Supporting this statutory mandate, in the legislative history of Pub. L. 98-101, the pertinent Report of the Senate Committee on the Judiciary (Report No. 98-68, 98th Cong., 1st Sess.; April 28, 1983) states at page 41:

> "(T)he Commission should also develop a plan to choose and carry out a limited number of projects to be undertaken by the Commission on behalf of the Federal Government. By 'limited number' the committee means two or three significant projects which can be accomplished within the resources of the Commission and which will bring credit and commendation to the Federal Government's efforts to commemorate its own birth."

Available appropriated funds of substantial measure will be absolutely necessary, in advance, to enable the Commission to do the initial planning, research and underwriting of the type of Federal project envisioned by section 6(e)(1) of Pub. L. 98-101. The source of such funds, when needed during the coming two years, will of necessity be the "Other Services" classification of the Commission's budget.

QUESTION NO. 10:

Your printing and reproduction costs total only $1,200,000 in 1987. Will other agencies in government be contributing printing and reproduction expenses to support your efforts?

ANSWER:

No. See pages 18-19 of the Commission's prepared justification materials.

QUESTION NO. 11:

Last session, in Title V of Public Law No. 99-194, the Congress directed the Commission on the Bicentennial of the United States Constitution to "implement an annual national bicentennial Constitution and Bill of Rights competition" based upon programs developed and used in elementary and secondary schools. With assistance from the U.S. Departments of Education and Justice, the Center for Civic Education is currently developing and testing such a program for a National Bicentennial Competition on the U.S. Constitution and Bill of Rights in more than 20 congressional districts. What appropriation will be needed in fiscal year 1987 to fund this National Bicentennial Competition nationwide?

ANSWER:

Background: Title V of Pub. L.#99-194 authorizes $5 million in appropriations for Fiscal 1987. This authorization is for a program in addition, but complementary, to the purposes of the Bicentennial Commission as set out in Pub. L. 98-101. A copy of the text of Title V, Pub. L. 99-194, was included in the justification materials supplied to the Subcommittee prior to the hearing.

This Act authorizes and directs the Commission to carry out a major two-part interrelated program, as set forth below. It also provides that the amounts appropriated for each fiscal year "may be used for necessary administrative expenses, including staff." The two-part program is as follows:

I. An Educational Grant Program

The Commission is directed by Congress to "carry out an education program for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights."

(a) To do this, the Commission is authorized to make grants to---

... local educational agencies,

... private elementary and secondary schools,

... private organizations,

... individuals, and

... state and local public agencies in the
United States.

(b) These grants by the Commission are to be for the development of instructional materials and programs on the Constitution and the Bill of Rights.

(c) The instructional materials and programs are to be designed for use by elementary or secondary school students.

II. A National Bicentennial Competition

The Commission is directed by Congress to implement a national bicentennial competition on the Constitution and the Bill of Rights, which will be---

... an annual competition

... based upon the programs developed and used by elementary
and secondary schools (under grants made by the Commission,
as described above).

For Fiscal 1987: We are advised that the Center for Civic Education, testifying before your Subcommittee, stated through its Executive Director, Charles N. Quigley, that $2.7 million would be needed in direct federal support (appropriations) for Fiscal 1987. This would be, as we understand it, to support the efforts of the Center for Civic Education in implementing a nationwide National Bicentennial Competition based on educational programs developed and used by secondary schools. The financing would be done, presumably, through grants made by the Commission under the authority of Title V.

The scope of Title V as outlined above, however, goes far beyond one grant and one grantee. It covers the entire spectrum of state and local, public and private school agencies and organizations. Such a nationwide involvement in an educational program about the Constitution and the Bill of Rights would, of course, be a great accomplishment for the Nation and for passing on to a new generation a greater appreciation of the fundamental structure of America and its history.

There is no request in the President's Budget for funding the Title V program in Fiscal Year 1987. The law was passed and signed, as you know, very late in the Session (December 20, 1985). Accordingly, this Commission is not authorized to request funds for Title V. As we testified during the Subcommittee hearing on February 12, 1986, we fully support the President's Budget as submitted to Congress, providing this Commission with an increase of $12 million to be expended during the fiscal years of 1987 through 1989. In carrying out this responsibility, of course, we will be mindful of all of the priorities mandated by Congress, including Title V of Pub. L. 99-194.

FROM: Representative George M. O'Brien

QUESTION NO. 1:

In FY 1987, you plan to hire additional personnel and increase the current staff level from 83 to 100 full-time, permanent positions. To which of the areas or activities will these additional personnel be assigned?

ANSWER:

Additional personnel employed in FY 1987 will be assigned to carry out the Commission's efforts to stimulate a nationwide educational and civics program designed to focus attention on the creation and contents of the Constitution as written in Philadelphia during the months of May through September, 1787.

QUESTION NO. 2:

No benefits were paid employees in FY 1985. What is the total estimated cost of benefits for FY 1987?

ANSWER:

$570,000.

QUESTION NO. 3:

You cite the possibility of various moves before the staff can be housed in adequate office space.

QUESTION NO. 3(a):

How is your search for office space progressing?

ANSWER TO 3(a):

The Commission presently has 3 locations -- 734 Jackson Place, N.W.; 722 Jackson Place, N.W.; and 1717 H Street, N.W. (which is approximately two blocks from Jackson Place).

GSA has prepared construction drawings and cost estimates for permanent office space for the Commission which will be located on the 10th floor of the Bicentennial Building at 600 E Street, N.W. We expect to occupy this E Street space in July 1986.

QUESTION NO. 3(b):

Have you completed any preliminary estimates on the costs associated with moving and those related to the transportation of office equipment? If so, please provide these cost projections for the record.

ANSWER TO 3(b):

There are three locations from which furniture and equipment must be moved when we occupy the Bicentennial Building. These moves are estimated to cost a maximum of $20,000. Additionally, major portions of our equipment and furniture will be delivered directly to the Bicentennial Building. We have no estimate for these transportation costs at this time.

QUESTION NO. 3(c):

In your estimation, are funds appropriated in FY 1986 sufficient to meet the costs of transportation and cover the expenses associated with multiple moves? If not, will you submit a supplemental request to meet these costs?

ANSWER TO 3(c):

Yes. The funds appropriated are sufficient.

QUESTION NO. 3(d):

I note that the General Services Administration has waived SLUC charges for space occupied by the Commission. Does that waiver apply to only space currently occupied by the Commission or to space it might occupy in the future as well?

ANSWER TO 3(d):

The Commission believes, and is budgeting on the basis, that the GSA waiver of SLUC charges will apply to space occupied in the future.

QUESTION NO. 3(e):

Should a suitable office be located during this fiscal year, will you submit a request for a supplemental to cover both the costs associated with moving and transportation and, possibly, rent and maintenance costs should GSA require them?

ANSWER TO 3(e):

Should GSA require rent and maintenance charges, the Commission would have to reevaluate its resources. A supplemental appropriation would be one of the options we would consider. Otherwise, the answer is, No.

QUESTION NO. 4:

You acknowledge that the demand for the Commission's publications is certain to increase, particularly in the near-term. Given the Commission's ambitious plans to increase national public awareness of the Commission and its activities and its more fundamental objective of furthering understanding and appreciation of the Constitution are the funds requested for printing and reproduction adequate to meet these goals?

ANSWER:

We believe so at this time.

QUESTION NO. 5:

With respect to your request for printing and reproduction costs, will all printed matter (i.e., newsletters, books, booklets, etc.) be available for free distribution to the general public or will there be a charge for certain, more costly publications?

ANSWER:

At present the plan is to continue free distribution. This policy is always subject to review, and it could develop that some publications of the Commission would have to be sold at a price to offset some or all of the costs involved.

FROM: Representative Joseph D. Early

QUESTION NO. 1:

Have all twenty-three members of the Commission been appointed by the President? Please list present appointees.

ANSWER:

Yes. Members of the Commission are listed below, and a brief biography of each member was included in the prepared materials submitted earlier to the Subcommittee.

Warren E. Burger, Chairman
Frederick K. Biebel
Lindy Boggs
Herbert Brownell
Lynne V. Cheney
Philip M. Crane
William J. Green
Edward Victor Hill
Cornelia G. Kennedy
Edward M. Kennedy
Harry McKinley Lightsey, Jr.
William Lucas
Edward P. Morgan
Betty Southard Murphy
Thomas H. O'Connor
Phyllis Schlafly
Bernard H. Siegan
Ted Stevens
Obert C. Tanner
Strom Thurmond
Ronald H. Walker
Charles E. Wiggins
Charles Alan Wright

QUESTION NO. 2:

You stated in your justifications that some 22 State Bicentennial Commissions have been organized. Are these established State committees/commissions staffed mostly by volunteers and/or charitable contributions? Or, are they paid for by the States? How many state committees do you estimate will be formed by the end of 1986?

ANSWER:

We have no specific information as yet on how each of the 22 existing State bicentennial commissions/committees are staffed and funded. Those presently formed, however, have their origin in actions by the States' chief executive officers or legislatures, or both. As more information develops, we will keep the Subcommittee advised.

By the end of 1986, our expectation is that about three-fourths of the States and Territories, if not all of them, will have taken necessary steps to create bicentennial commissions/committees.

QUESTION NO. 3:

What progress has the staff made in disseminating regulations providing for use of the official logo? Is the Patent and Trademark Office involved in any way? What are the costs involved?

ANSWER:

Regulations governing use of the official Logo are attached hereto for the record. They have been sent to the Federal Register for publication and will be widely distributed thereafter. We expect to obtain a trademark for the Logo. The costs involved are minimal for the printing of design layouts and forms. Users of the Logo must pay their own costs.

QUESTION NO. 4:

How many staff are currently on board? You estimate 83 and 100 full-time, permanent positions in FY 86 and FY 87, respectfully? Do you anticipate or are you presently having any problems filling these positions since the Commission will only be in existence for a relatively short period--at which time employees will be forced to find new jobs?

ANSWER:

On board as of March 3, 1986, there are 21 full-time, permanent employees and two temporary employees. All are paid from appropriated funds; there are no employees paid from donated funds. On details from other agencies, there are presently 10 employees on the Commission staff, eight of whom are detailed for one year or less.

We do anticipate problems, and are currently experiencing problems, finding staff employees of the caliber and experience necessary to carry out the Commission's mission. The short time frame for such employment is unquestionably a deterrent.

The short time frame for the Commission's life, and the attendant uncertainties of future job security, are also deterrents to capable Government employees who might otherwise be willing to be detailed to the Commission.

QUESTION NO. 5:

Is the Bicentennial Commission planning to construct a monument on the Mall? If so, what do you project will be the cost involved? Will you rely solely on charitable contributions?

ANSWER:

No. The Commission is not planning to construct a monument on the Mall.

QUESTION NO. 6:

It is my understanding that the Archives' budget does not include grants for the Madison Papers Project. Is the Bicentennial Commission planning any similar type projects/studies?

ANSWER:

Not at this time.

Appendix A

SUMMARY OF FEDERAL PROJECTS AND ACTIVITY PLANS

Department/Agency	Projects/activities
Action	Distribute literature to Action's regional & state offices
Administrative Conference	Yearly seminars (1987-1991) at academic centers throughout the country to establish dialogue between academics and elected officials on America's complete Constitution, i.e.the U.S. Constitution in concert with 50 state Constitutions comprise the American system of governance.
Agricultural Department Forest Services	1988 Arbor Day-plant trees involving the 50 states and private groups
Economic Research Services	Study agricultural backgrounds of members of Constitutional Convention
	Bicentennial history of U.S. Department of Agriculture
	Chronological chart
	Symposium on History of Agriculture and the Constitution in cooperation with the Agricultural History Society and major land-grant universities
Agency for International Development	NONE
American Battle Monuments	NONE-Unable to Participate
Appalachian Regional Commission	Sponsor a craft competition, representing the historic significance of the Appalachian Region in the history of the United States
	Commission on the Appalachian Quilt on a Constutional theme.

Board of Governers on the Federal Reserve System	NONE
Board of International Broadcasting	NONE
Central Intelligence Agency	NONE
Commerce Department	Wrote a series of bicentennial stories in the monthly newspaper COMMERCE-PEOPLE, began in January 1986. Write "WE THE PEOPLE" column in COMMERCE NEWS DIGEST. column captures an important event in the development of the Constitution that took place on that date Create living history theatre in the Great Hall of the Hoover Building. Cooperate with the private sector to produce a business and trade exibit that relates the Commerce Department today with the Constitution
Commission on Civil Rights	Print articles in quarterly magazing "New Perspective." Commission could participate on National Speaker's List/debates. Issue internal commemorative/ educational material the week of September 17, 1987.
Commission on Fine Arts	NONE
Commodity Futures Trading Commission	Publish on the cover of daily news clips a short historical note relating to the Constitution.
Consumer Product Safety Commission	NONE

Department of Defense

Army

Air Force

Navy

Marines

The Department of the Army has given the lead for the Bicentennial of the Constitution and all branches of the Military will work with them. Highlights of the program are:

Emphasize Bicentennial during activities associated with Armed Forces Day, Veteran's Day, the Unveiling of the Statue of Liberty and appearances of our community relation assets in the public domain.

Preparing articles for the distribution with the byline of Senior Army leaders

Bicentennial Music Album

Lecture series

Brochures prepared on 23 signers of the Constitution, 5 currently ready.

Featured Articles in Soldier's Magazine.

Small Book on Signers in Spring 1987.

Video Tapes on Signers.

Musical arrangments.

Executive Session of Curators in D.C. June/July focusing on Constitution.

Army exhibit in 1986, Philadelphia Spectrum 1987.

Participation in Annapolis Convention.

Education Department	Series of lectures by Secretary Bennett in 1987 on the Founding Fathers and American Education.
	Support for worthy projects on the Constitution through Department
	Secretarial endorsement of worthy selected projects to enhance fundraising efforts.
	Continuing consultation with National Endowment for the Humanities in broad range of NEH activities initiated under former NEH Chairman Bennett.
Energy Department	Highlight energy developments during the 200 year period. Calendar will be identified as a Constitutional Commemorative exhibit at DOE Headquarters
	Initiate Symposium
	Create Arm Patches with DOE and Constitution's Bicentennial logo. Patches will be worn by 4,700 guards.
	Commission a poster.
	Include articles about the Constitution and contractor publications.
Environmental Protection Agency	Internal projects utilizing four in-house publications
Equal Employment Opportunity Commission	NONE
Export Import Bank	NONE
Federal Bureau of Investigation	Initiate FBI stationary with line "Bicentennial of the United States Constitution 1787-1987."

	Article in LAW INFORCEMENT bulletin.
	Compilation of a bibliography
	Concert series.
	Use display windows for the Bicentennial exhibit concert in summer of 1987. Lecture series.
Federal Communication Commission	Use Bicentennial calendar to provide "Bicentennial Minutes" in the "Daily Digest", which will go to the members of the public, and broadcast and telephone industries.
	Present Chairman Fowler with the calendar at our Commission meeting in March which will be televised through George Mason University.
	Write Constitutional Highlights in "News Clips" which summarizes weekly events and press reports.
Federal Election Commission	NONE
Federal Deposit Insurance Corporation	NONE
Federal Emergency Management Agency	NONE
Federal Home Loan Bank Board	NONE
Federal Labor Relations Authority	Conduct employee discussions with group leaders.
	Distribute Commission Bicentennial Newsletters.
	Publish Daily Minutes with newsclip.
	Commission posters in each office in the United States.
Federal Meritime Commission	NONE

Federal Mediation and Consiliation Service	History of our agency.
Federal Trade Commission	Have begun a series of lectures to employees about the Constitution as it affects the FTC. Will emphasize the Commerce Clause and its emphasis on Free Enterprise. Separation of powers has been a continuing interest.
	Videotape presentation for adopted local schools.
General Services Commission	NONE
Health and Human Services	NONE
Housing and Urban Development	Send letters to state and local government agencies on offials' involvement in the Housing and Urban Development, inviting them to join celebration.
	Provide HUD employee lecture.
	Create bicentennial minutes in Secretary's daily news report.
	Work with adopted School.
	Commission bicentennial poster and lobby display panel.
	Include "HUD and Constitution" in all HUD external correspondence.
Inter-American Foundation	NONE
Interstate Commerce Commission	NONE
Interior Department	Bicentennial Daybook.
National Parks	Touring company of actors.
	Reprint of Books Signers of Constitution and Framing of Constitution
	Exhibit--viewing Constitution through political cartoons.

	Script for the play "A More Perfect Union" will be available for production.
	Philatelic Activities.
	Scholars in the Park program.
	Identified 110 parks that have Constitutional historical significance to the Constitution. Activities will be at all parks.
	Developing slide/sound program for onsite and adjacent community use.
	Produced "Four Little Pages", a musical/drama. The play will go on a national tour at the parks and local communities.
	There are 12 other projects in the planning stage.
Surface Mining	Constitutional series in employee publication, "Grassroots".
	"Take Pride" support for Secretary's Land Resources Program.
	"Welfare of the People" theme for Field and State offices to reach people in the outlaying districts.
Bureau of Mines	NONE
Bureau of Land Management	History of Public Land Surveying (exhibits, booklets, video/slide Presentation).
Geological Survey	NONE
U.S. Fish and Wildlife	"Take Pride in America" Service

Justice Department	Present Attorney General's Conferences on Constitutional Values (e.g. Federalism, Separation of Powers, etc.)
	Present Attorney General's Bicentennial Lecture Series: "The Founders' and Their Times."
	Distribute copies of the Constitution (pocketsized with introduction, appendices of Declaration of Independence, and Articles of Confederation.)
	Issue daily news clips on the Constitution. (Justice Department representative willing to share with other departments and agencies.)
Labor Department	Sponsor essay contest for "students at "adopted school".
	Include upcoming Bicentennial activities in future issues of "Notes from the Secretary".
	Ten regional Representatives will develop activities in their regions.
National Archives and Records Administration	Planned 25 projects. Project highlight include public reading of portions of the Constitution.
	Conferences at selected Presidential libraries.
	Brochures/publications.
	Documentary Collection: Foreign Relations of The United States, 1783-1789.
	87 hour vigil beginning September 13 and September 17.
	Debates.

	Formation of the Constitution exhibition for Rotunda of the National Archives.
	Publication of teaching units for secondary school teachers, community college and 4 year colleges.
	Printing and sale of the facsimilies of the U.S. Constitution.
	One volumn book *Framers of the Constitution: a Biographical Dictionary.*
	A slide show about the Constitution for Archive visitors.
	Constitutional film festival.
	Supreme Court film project.
National Aeronautics and Space Administration	Teacher in space program January, 1986.
National Capital Planning Commission	Distribute materials on Constitution to staff.
	Share materials with adopted schools.
National Credit Union Administration	Inclusion of articles in monthly lewsletter to the nation's 15,000 federal insured credit insured credit unions.
	Essay contests and debates within the agency.
	Use of material for chairman's speech.
National Foundation on the Arts and Humanities	Sponsor Bicentennial of the U.S. Constitution National Competition for high school and college students to conduct research writing project on the U.S. Constitution.

	National Endowment for the Humanities has funded 193 Constitution related projects.
National Labor Relation Board	NONE
National Mediation Board	NONE
National Science Foundation	Considering incorperating Bicentennial activities with our own national effort--that of National Science Week, May 11-17, 1986. (Constitution signatory Benjamin Franklin-scientist)
National Transportation Safety Board	Advise employees of the Consitutional basis of NTSB activities and authorities. (Commerce Clause of the Constitution) Get employees involved by informing them throughout celebration of the key dates and how it relates to all of us as a free people. Speaker and presentations in schools and other organizations.
Nuclear Regulatory Commission	Research and publish historical studies of nuclear regulation and relate important Constitutional issues such as congrassional-executive relations, the authority of state in a federal system and the role of the federal judiciary in regulatory affairs.
Occupational Safety and Health Review Commission	Publish Constitutional issue of employee newsletter, OSH TALK. Speakers.
Office of Management and Budget	NONE
Office of Personnel Management	NONE

Panama Canal Commission	Prepare a statue display for the rotunda in the Administrative Building. Publish feature articles in the SPILLWAY, an employee magazine.
Peace Corps	NONE
Pennsylvania Avenue Corporation	NONE
Pension Benefit Guaranty Corporation	NONE
Postal Rate Commission	Place stamp posters commemorating origins of USA into public areas. Locate a postage meter imprint concerning the Constitution which will be placed on all our outgoing mail.
Railroad Retirement Board	Public Affairs will destribute Commission publicity material to publications editors of the nation's railroads and rail labor organizations. Equal opportunity Office will forward Commission material to "adopted" school. Field offices will display Commission posters and other material.
Securities and Exchange Commission	Publish publication of Bicentennial Newsletter items. Circulate a calendar of Constitutional events and commemorative dates to all staff. Display posters and other artwork in the Commission's headquarters and regional offices.

	Incorporate Constitutional themes and references to the Bicentennial in speeches given by the SEC Commissioners and senior staff. Prepare lecture series to SEC staff.
Small Business Administration	NONE--unable to particiapte.
State Department	Proposed joint publication of documents with the National Archives and Records Administration on the earliest foreign policy of the United States, 1777-1789. Present lecture series to Department personnel.
Tennessee Valley Authority	Send out mailers in electric bills. Some possible TVA contributions could be: Chartered Air Travel within the 7 valley states. Printing Art Work Audio Visual Production Assistamce in Developing Library Loaned Executive(s) in Washington or in 7 Valley States
Transportation Department	Present lecture series to employees. Sponsor educational activities at Departments adopted schools. Sponsor activities in local field offices.

Federal Highway Admin.	Devote quarterly issue of publication to Constitutional Issues.
	Encourage states to plant "Constitutional" trees in state highway rest areas.
U.S. Coast Guard	Band and Color Guard.
	Local involvement of Philadelphia Coast Guard Station.
	Providing coastal and harbor support at local celebrations.
	Looking to tie in with Bicentennial of Coast Guard in 1990.
Treasury Department	Create a series of colloquia on Alexander Hamilton's contribution to the Federalists Papers and his theories of public administration.
	Sponsor essay contest for high school students on Alexander Hamilton.
U.S. Arms Constrol and Disarmament Agency	NONE
U.S. Information Agency	Create Bicentennial news events on Voice of America.
	Bicentennial projects to be implemented on USIA administered programs of educational and cultural exchange.
	Create and maintain Bicentennial projects at 214 overseas posts.
	Speakers to speak in 129 countries.

	Create and maintain Bicentennial exhibits and projects at the 135 libraries.
	Integrate U.S. Constitutional studies in English language teaching programs.
U.S. International Trade	NONE
U.S. Mint	NONE
U.S. Postal Service	Commemorative Stamp program, 1987-1992
U.S. Trade Representatives	NONE
Veterans' Administration	NONE
White House	NONE

Updated February 28, 1986

Appendix B

Approved Recommendations of the Bicentennial Commission and Citizens' Stamp Advisory Committee

Commemorative Event to be Honored	Bicentennial Commission Recommendation	Citizens' Stamp Advisory Committee Recommendation
1987		
May 25 - Convening of Constitutional Convention	Yes	Yes
June 19 - Convention decides to conceive a new national government rather than amend Articles of Confederation	Yes	Yes - (Drafting of the Constitution)
July 13 - Northwest Ordinance finalized	Yes - important to entire Midwest	Yes - (Date to be decided)
September 17 - Approval of document by 12 state delegations	Yes	Yes
October 27 - First "Federalist" paper appears in New York City newspapers	Yes	Yes
December 7 - Ratification Constitution of Delaware	Yes	Yes
December 12 - Ratification of Constitution by Pennsylvania	Yes	Yes
December 18 - Ratification of Constitution by New Jersey	Yes	Yes
1988		
January 2 - Ratification of Constitution by Georgia	Yes	Yes
January 9 - Ratification of Constitution by Connecticut	Yes	Yes
February 6 - Ratification of Constitution by Massachusetts	Yes	Yes
April 28 - Ratification of Constitution by Maryland	Yes	Yes

Commemorative Event to be Honored	Bicentennial Commission Recommendation	Citizens' Stamp Advisory Committee Recommendation
1988		
May 23 - Ratification of Constitution by South Carolina	Yes	Yes
June 21 - Ratification of Constitution by New Hampshire (Last of nine state ratifications needed for adoption of Constitution)	Yes	Yes
June 25 - Ratification of Constitution by Virginia	Yes	Yes
July 26 - Ratification of Constitution by New York	Yes	Yes
December 23 - Ten square miles of land ceded by Maryland to Congress for a federal city	Yes - (important to honor creation of the District)	Yes - (but date to be determined later)
1989		
April 1 - House of Representative achieves first quorum	Yes	Yes
April 6 - Senate achieves a quorum	Yes	Yes
April 30 - Inauguration of George Washington	Yes	Yes
July 27 - Department of Foreign Affairs established	Yes - (provided all four are included, see below.)	Yes - (Issue to recognize Executive Branch and four Cabinet positions noted here.)

Commemorative Event to be Honored	Bicentennial Commission Recommendation	Citizens' Stamp Advisory Committee Recommendation
1989		
August 7 - War Department established	(See above)	(See above)
September 2 - Treasury Department established	(See above)	(See above)
September 22 - Office of Postmaster General established	(See above)	(See above)
September 24 - Federal Judiciary Act passed	Yes	Yes
September 25 - Twelve amendments to Constitution submitted	Yes	Yes
November 21 - Ratification of Constitution by North Carolina, resulting from Congressional action to amend it	Yes	Yes
1990		
May 29 - Ratification of Constitution by Rhode Island	Yes	Yes
1991		
December 15 - Ratification of Bill of Rights by Virginia	Yes	Yes

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WEDNESDAY, FEBRUARY 19, 1986.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

WITNESS

MARY JANE CHECCHI, ON BEHALF OF THE CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

OPENING STATEMENT

Mr. SMITH. The last commission we have here this morning is the Christopher Columbus Quincentenary Jubilee Commission. Here to testify is Mary Jane Checchi. And we understand the Commission Chairman and Executive Director are unable to appear today.

[CLERK'S NOTE.—The justifications and biographies follow:]

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

APPROPRIATION ESTIMATE
FOR
FISCAL YEAR 1987

Submitted to the Subcommittee on
Commerce, State, and Judiciary
of the House of Representatives Committee on Appropriations

February 1986

Proposed Appropriation Language

Christopher Columbus Quincentenary Jubilee Commission

Salaries and Expenses

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992. (Christopher Columbus Quincentenary Jubilee Act.)

Christopher Columbus Quincentenary Jubilee Commission

Background:

The Christopher Columbus Quincentenary Jubilee Commission, as an independent Federal agency directed by thirty commission members, was established for the purpose of planning, encouraging, coordinating, and conducting the commemoration of the voyages of discovery of Christopher Columbus. The Commission was created on August 8, 1984, by Public Law 98-375 (Christopher Columbus Quincentenary Jubilee Act).

Congress has charged the Commission to prepare a comprehensive program for commemorating the quincentennial of the voyages of discovery of Christopher Columbus. In carrying out this mandate, the Commission shall particularly examine the historic role of the government and people of Spain in order to promote a greater public awareness, understanding, and appreciation of the contributions made by Spain with respect to these voyages.

Additionally, the Commission is charged to submit to the President by September 1987, a comprehensive report incorporating its recommendations for the commemoration of the quincentennial of the voyages of discovery of Christopher Columbus. The report shall include---

(1) recommendations for appropriate activities for the commemoration, including---

- (A) production of literary and educational materials;
- (B) bibliographical and documentary projects;
- (C) conferences, lectures, and seminars;
- (D) the development of libraries, museums, and exhibits;
- (E) ceremonies and celebrations commemorating specific events;
- (F) programs focusing on international significance; and
- (G) specifications relating to the issuance of commemorative coins, medals, and stamps by the United States;

(2) recommendations for the allocation of financial and administrative responsibility among the public agencies and private organizations recommended for participation by the Commission; and

(3) recommendations for such legislative and administrative actions as the Commission deems necessary.

Fiscal Year 1986 Activities

The Commission's first meeting took place on September 12, 1985, at which time the members were sworn in. During fiscal year 1986 the Commission will be establishing its offices and hiring its staff.

The Commission's second meeting and first working session took place on January 22-24, 1986. The Commission voted to meet on a quarterly basis. Committees were created to address the following areas of responsibility: finances and funding, business and industry relations, domestic relations, foreign relations, public and media affairs, education, cultural affairs, and historical affairs. The Commission chose Mr. Arman Cruz as its Executive Director. Office space provided rent free until May 1 was procured at Bacon House, 18th and F Streets, N.W. Washington, D.C.

The Commission will conduct a second working meeting on May 1, 1986. The third and forth meetings of the Christopher Columbus Quincentenary Jubilee Commission will take place in September and December, 1986.

Further activity planned for FY 1986 includes: working toward the design of a logo for the Commission and for the Quincentenary Celebration and preparation for production and publication of historical, educational, and cultural materials to be distributed by the Commission, and other activities mandated in PL 98-375.

The Commission's activities will center around the development of the recommendations which are to be included in the September 1987, report to the Congress.

Fiscal Year 1987 Planned Activities:

Commission activities for 1987 include: further development of private sector resources, and implementation of plans developed in 1986 including production and publication of historical, educational, and cultural materials.

The Commission will concentrate on the preparation of the report due to the Congress in September 1987.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SUMMARY OF RESOURCES
($000)

	FY 1986 Budget	FY 1987 Request	Change
Budget Authority...	0	220	+220
Unobligated Balance	199	0	-199
Obligations........	199	220	+21
Outlays............	200	218	+18
Positions (FTE)....	3	3	

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

ANALYSIS OF CHANGES IN OBLIGATIONS
($000)

	FY 1986	FY 1987	Change
	199	220	+21
Increase:			
Permanent Staff	53	73	+20
Personnel Benefits	6	7	+1
TOTAL			+21

Fiscal Year 1987 Budget Policy:

The Commission is requesting $220,000 for fiscal year 1987, to remain available until November 15, 1992. This amount and timeframe are authorized by the Commission's enabling statute (98-375). Personnel compensation and benefits of $80,000 will fund the Director and staff. Although the Commission is authorized to hire twenty staff members, it is anticipated that a minimal number will be funded through this appropriation request. The Commission is authorized to receive donations; it is from these funds that the Commission will increase its staff in order to effectively perform its mandate. An amount of $70,000 is for staff member's travel and communications. The inherent responsibilities of the Commission will require extensive liaison with the states, academy, and the countries of Spain and Italy, through direct travel of the Commission staff and members, as well as mass written and telephonic communications. An amount of $60,000 is being requested for other administrative expenses, which includes office rent, rental of equipment, etc.

Conclusion

The Christopher Columbus Quincentenary Jubilee Commission developed its fiscal year 1987 budget without the benefit of any budget history or experience operating as a staffed independent agency of the Federal Government. Indeed, as of January 1, 1986, the Commission had not yet hired its Executive Director.

Despite the absense of a budget history and a full complement of staff members, the Commission members have carefully considered its responsibilities, determined its immediate objectives, and initiated the development of a detailed workplan for fiscal years 1986 and 1987.

The Commission believes that the $220,000 budget requested for fiscal year 1987 is fully justified and necessary in order for the Commission to perform its responsibilities as the central coordinator and clearinghouse for all activities related to the commemoration of the five hundredth anniversary of the voyages of Christopher Columbus. The Commission is anxious to have the opportunity to work with the administration, the Congress, state, local, and foreign governments, and the American public in seeing in fruition the recommendations which will be included in the September 1987 report to the Congress.

STANDARD FORM 300

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION
SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

76-0800-0-1-376	19 85	19 86	19 87
Program by activities:			
10.00 Total obligations..................	21	199	220
Financing:			
21.40 Unobligated balance available, start of year....................	-220	-199	
24.40 Unobligated balance available, end of year......................	199		
40.00 Budget authority...................			220
Relation of obligations to outlays			
71.00 Obligations incurred net..........	21	199	220
74.20 Obligations balance start of year		21	20
74.40 Obligated balance end of year....	-21	-20	-22
90.00 Outlays...........................		200	218

STANDARD FORM 300

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

76-0800-0-1-376	19 85	19 86	19 87
Personnel Compensation			
11.1 Permanent positions...............		53	73
11.3 Positions other than permanent....			
11.5 Other personnel compensation......			
Total personnel compensation........		53	73
Personnel benefits			
12.1 Civilian..........................		6	7
21.0 Travel & Transportation of persons	21	45	45
22.0 Transportation of things..........			
23.1 Standard level user charges.......		17	17
23.3 Communications, utilities and miscellaneous charge...............		25	25
24.0 Printing and reproduction.........		10	10
25.0 Other services....................		33	33
26.0 Supplies and materials............		2	2
31.0 Equipment.........................		8	8
99.0 Total Obligations.................	21	199	220

JOHN NICHOLAS GOUDIE

John Nicholas Goudie was born on October 8, 1945 in Havana, Cuba, the son of Juan and Mary Goudie, the grandson of Dona Luz de los Angeles Monteverde-Tio and Don Arturo Goudie-Crowford. Dona Luz de los Angeles was the daughter of Doctor Federico Monteverde-Sedano, who served as the Division General of the Spanish Army and Military Attache to the Embassy of Spain in Cuba. He was a gentleman of the Chamber of His Majesty and Recipient of Patriotic Honor.

Immigrating to the United States in 1960, John Goudie was educated in Miami at Coral Gobles and South West Highschools, before attending Miami Dade Junior College, Houston University and the University of Miami. During his undergraduate years, he worked in retail sales and as a salesman for the Miami Herald Publishing Company. In 1975 he earned his Real Estate Manager's license from Florida International University.

During 1969 through 1971, Mr. Goudie was Assistant General Manager at Gilbert Gertner Enterprises in Houston, Texas. In December of 1971 he returned to Miami as Vice President of Transcontinental Realty Corporation, overseeing the management, construction and marketing of new and existing properties.

In June of 1977, Mr. Goudie began his own realty and development firm, Goudie and Associates, Inc. He currently acts as President overseeing all construction, marketing and management of numerous real estate projects in South Florida.

During his career, Mr. Goudie has been active in such professional and social affiliations as: Miami Board of Realtors, Director, First American Bank of Dade County, Grove Isle Club and the Miami Rowing Club. He also serves as the Director of the Spanish American League Against Discrimination.

BIOGRAPHICAL SKETCH

Armin J. Cruz

Armin J. Cruz was born in Banes, Cuba in 1954. He immigrated to the United States in 1961. Originally settling in Brooklyn, New York, he moved to Miami in 1969, where he has been a resident ever since.

Mr. Cruz attended high school at Miami Military Academy. Graduating salutorian, he was listed in Who's Who in American High Schools and was the recipient of numerous academic awards.

Although he had several colleges and scholarships available, Mr. Cruz accepted one of only 1,700 allowed appointments to the United States Military Academy at West Point. During his stay at West Point, Mr. Cruz received several awards and distinctions for performance. Finishing sixth in leadership in a class of just over 700 students, Mr. Cruz also holds the distinction of being one of the first two Cuban exiles to graduate from West Point. Mr. Cruz graduated in 1977 with a Bachelor of Science in Engineering.

During his six and a half years of service, Mr. Cruz had several assignments completing army service as a captain in 1984. He is a graduate of the Army's Jungle Operation School and Recondo/Long Range Patrol training. He served as project officer for a program charged with determining future weapon and defense needs for the year 1995 and beyond. Among numerous awards, Mr. Cruz is a recipient of the Army's Service Medal, National Defense Medal, and the Army Meritorious Service Medal, one of the highest peace time awards given by the Army.

Mr. Cruz is the Executive Director of Expo 500 and Vice President of the Greater Miami Chamber of Commerce. Additionally, Mr. Cruz is a graduate of Leadership Miami, a concentrated training session for identified future leaders of Miami. He is a member of Leadership Miami Alumni Association, a Member of the Association of West Point Graduates. He is also on the Board of Governors of the Southeast Florida Better Business Bureau, a Member of the Beacon Council, an organization dedicated to planning the future economic development of Dade County and a Member of the City of Miami International Trade Committee.

Armin J. Cruz lives in North Miami with his wife, Doreen Ann and their two children, Armin who is five years old and Jennifer who is four.

STATEMENT OF MARY JANE CHECCHI

Ms. CHECCHI. Mr. Chairman, my name is Mary Jane Checchi. Thank you for the opportunity to appear today.

I'm a member of the commission; our chairman, John Goudie, was unable to be here today and I am presenting, in his absence, the fiscal '87 budget request for the commission.

The administration requests $220,000 for fiscal year 1987 to support the commission's activities mandated by Public Law 98-375. This amount is to remain available until 1992.

In fiscal year 1984, our appropriation was $220,000, and there was no appropriation for the commission in fiscal years 1985 and 1986.

I would like to briefly update you on what we have accomplished as a commission and what we plan to accomplish in the next couple of years.

Our first meeting was in September, 1985, when the commission members met for the first time and were sworn in. We obtained some temporary office space on loan in December, and we'll have that until May of this year, at which time we'll have some permanent space.

Our first working session was January 22nd, 23rd, and 24th. Those January meetings involved a lot of discussion of how to achieve the goals stated in our legislative mandate, and we also began to organize, primarily by setting up a series of functioning committees.

The commission has an international mandate, obviously under the direction of the Department of State, to work with not only Central and Latin American countries, but Spain and Italy. We will seek to operate internationally and at the State and local level by coordinating with organizations already formed or to be formed relevant to the 1992 efforts. Where no such organization exists—and I ought to mention that virtually every Latin American nation, as well as Spain and Italy, already have commissions in place, and many of them have been in place and operating for several years—on the domestic front, our commission will seek to work with State governments, State Chambers of Commerce, universities, schools, and other organizations to devise a system for operating in the State. Locally, we'll coordinate with appropriate local private sector and government organizations.

Our two priorities at this point are planning and funding. Through the finance and funding committee, plans are being made to raise funds from the private sector through contributions and through sale of medallions, stamps, and other commemorative memorabilia as mandated in our authorizing legislation. We expect that this will also help to increase public awareness for the jubilee.

Our commission's activities during the coming year will focus on the development of recommendations which are to be included in the mandated September, 1987 report to Congress; and that report will present our plans for what we hope to accomplish by 1992.

Our executive director will be on board, hopefully, at the beginning of next month. He has been selected; the commission members met him in January and ratified his appointment. Right now, we have one full time person on the staff.

[Statement of Ms. Checchi follows:]

STATEMENT OF
MARY JANE CHECCHI

ON BEHALF of the

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

BEFORE the

Committee on Appropriations
Subcommittee on Commerce, State, and Judiciary
House of Representatives

February 19, 1986

Mr. Chairman,

My name is Mary Jane Checchi. I am a member of the Christopher Columbus Quincentenary Jubilee Commission. Our Chairman, John Goudie, was unable to be here today and I am presenting, in his absence, the fiscal year 1987 budget request for the Jubilee Commission.

The Administration requests $220,000 for fiscal year 1987 to support the Commission's activities mandated by Public Law 98-375. In fiscal year 1984, our appropriation was $220,000. There was no appropriation for the Commission in fiscal years 1985 and 1986. The Subcommittee has been provided with a packet of information concerning the 1987 appropriation estimate.

I would like to briefly update you on what we have accomplished as a Commission and what we plan to accomplish in the next couple of years.

At the first meeting of the Jubilee Commission on September 12, 1985 our members met and were sworn in. Temporary office space was made available rent free in December until May 1986. Effective May 1, 1986 we will be moving to Bacon House, at 18th and F Streets, N.W. in Washington.

The next meeting and first working session of the Commission took place on January 22 through 24. At this meeting we decided on an aggressive plan to allow us to reach our goals by 1992. An outline made up of seven phases was prepared (Attachment A) to provide a realistic schedule to enable us to move toward our goal. In order to follow this outline the Commission formed eight committees (Attachment B) to cover the areas of importance to our mission. The following committees were established: Finances and Funding; Business and Industry; Domestic Relations; Foreign Relations; Public and Media Relations; Historical; Cultural; Educational Affairs. The formation of committees is part of phase one, the "Foundation and Stabilization" phase, establishing our organizational structure. Also at this meeting we chose an Executive Director, Mr. Arman Cruz. Mr. Cruz will begin working for the Commission at the end of February, 1986.

The January meetings involved much discussion of how to achieve the goals stated in our legislative mandate. The Commission will seek to operate internationally and at the state and local level with organizations already formed or to be formed for the purpose of coordinating the 1992 efforts. Where no such organization exists the Commission will seek to work with State Government and

State Chambers of Commerce and other organizations to devise a system for operation in the State. Locally, the Commission will operate through the state level with appropriate local private sector and government organizations. Internationally, the Commission will work with and obtain guidance from the Secretary of State on bilateral relationships with each individual national government involved in the Quincentenary Jubilee.

The Commission has discussed the possibilities of a nationwide logo design contest for college level students and the design of a commemorative stamp and medallion in accordance with Public Law 98-375 Section 4 (g). Our members have made a strong commitment to involving young people in the celebration and plan to establish various youth programs. We believe that interaction among students from Italy and Spain and Central American countries in various educational programs would be productive and stimulating.

Through the Finance and Funding Committee, plans are being made to raise funds from the private sector through contributions and through sale of medallions, stamps and other commemorative memorabelia which will also help to increase public awareness for the Jubilee.

The Commission's activities during the coming year will focus on the development of the recommendations which are to be included in the mandated September 1987 report to Congress.

Thank you for the opportunity to appear today.

Organizational Phase Outline

A. Foundation and Stabilization Setting (Phase 1)
(January 86 - July 86)
- (1) Mission
- (2) Concept of Operation
- (3) Organization
- (4) Committee Operational Statement
- (5) Administration development
- (6) Committee formation and initial tasking
- (7) Friends of 92 Advisory Counsil formation
- (8) Initial Resource Personnel Research
- (9) Commission initial literature and Audio Visual Show
- (10) First annual report to Congress

B. Expansion and Initial Planning (Phase 2)
(August 86-January 87)
- (1) Initial Committee Planning
- (2) National working conference
- (3) International working conference
- (4) Finalization of administration support
- (5) Request for proposals
- (6) Formation of Advisory Committees

C. Finalization Planning and Coordination (Phase 3)
(February 87-September 87)
- (1) Draft report review
- (2) Initial feasibility study
- (3) Final draft report review
- (4) Intermediate literature and Audio Visual Show
- (5) Final report submission

D. Planning Implementation (Phase 4)
(October 87 - July 88)
- (1) Feed back adjustment to report
- (2) Finalization of plan
- (3) Initiate national network organization/coordination
- (4) Committee final planning
- (5) Election of Consulting teams
- (6) Initial operational plan

E. Initial Execution (Phase 5)
(August 88 - December 91)
- (1) Final operational plan
- (2) Lead up activities
- (3) Developing literature and Audio Visual Show
- (4) Developing national network for execution

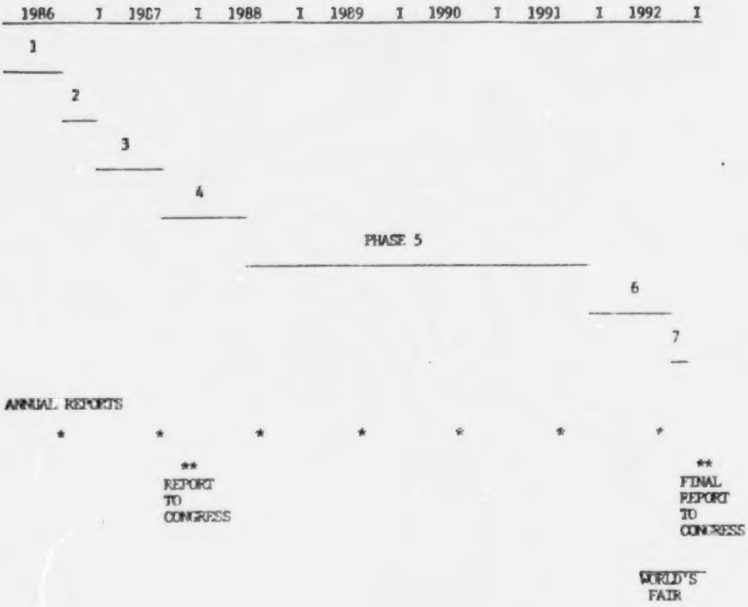
(Attachment A - Page 1)

F. Primary Execution (Phase 6)
(January 92 - October 92)

G. Shut down operation (Phase 7)
(1) Draft final report review
(2) Administrative shut down coordination
(3) Final report submission
(4) Termination of operations

CHRISTOPHER COLUMBUS QUINCENTENARY
JUBILEE COMMISSION

Initial Time Line Projections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REPORT
TO
CONGRESS
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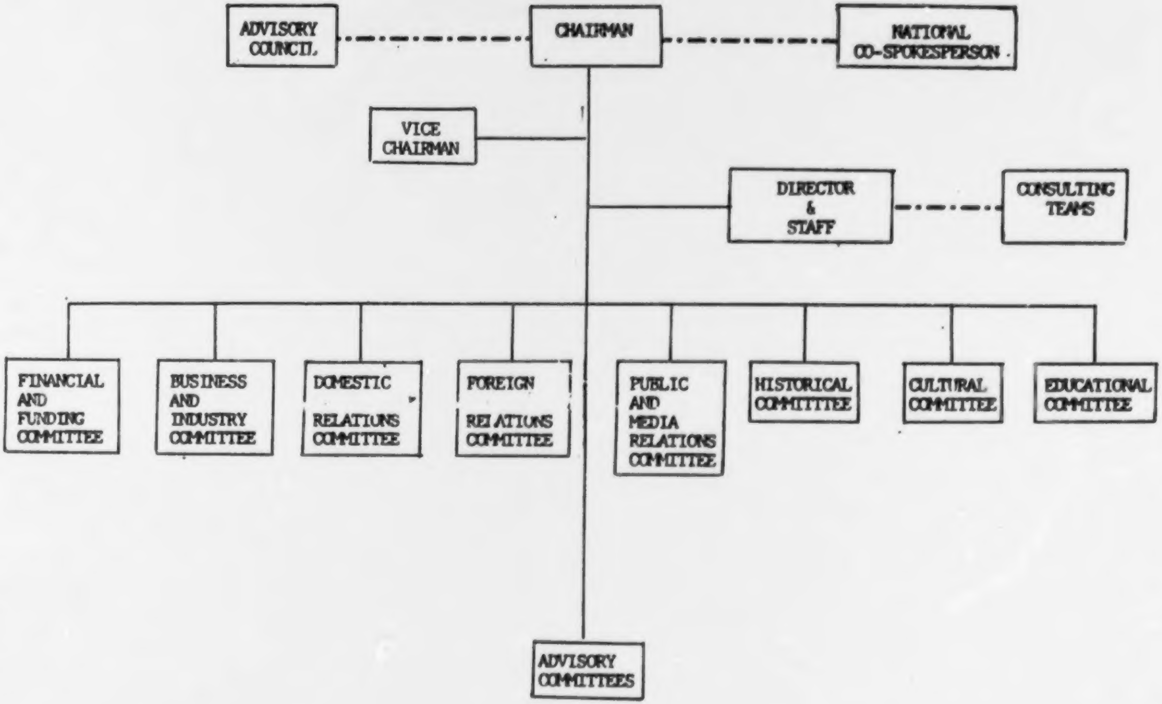
FINAL
REPORT
TO
CONGRESS
WORLD'S
FAIR

(Attachment A - Page 3)


ADVISORY COUNCIL
CHAIRMAN
NATIONAL CO-SPOKESPERSON
VICE CHAIRMAN
DIRECTOR & STAFF
CONSULTING TEAMS
FINANCIAL AND FUNDING COMMITTEE
BUSINESS AND INDUSTRY COMMITTEE
DOMESTIC RELATIONS COMMITTEE
FOREIGN RELATIONS COMMITTEE
PUBLIC AND MEDIA RELATIONS COMMITTEE
HISTORICAL COMMITTTEE
CULTURAL COMMITTEE
EDUCATIONAL COMMITTEE
ADVISORY COMMITTEES

(Attachment B)

Mary Jane Checchi
1618A Beekman Place, N.W.
Washington, D.C. 20009
(202) 667-9107

EMPLOYMENT

INDEPENDENT CONSULTANT
1983 to
present Legal, editorial, legislative and political services.

UNITED STATES SENATE STAFF
1975 to
1981 Staff Director and Chief Counsel of the U.S. Senate Democratic Policy Committee.
Director, Canaan Valley Conference. Organized and directed the first weekend issues conference of Democratic Senators.
Counsel to Majority Leader on the Judiciary Committee. Handled all legal and parliamentary issues relating to Senate ratification of the Panama Canal Treaties.
Deputy Chief Counsel of the Budget Committee. Analyzed legislation for its compliance with the Budget Act and annual Budget Resolution.
Legislative Assistant to Senator Birch Bayh.
1972 Legislative Assistant to U.S. Senator Edmund Muskie.
Summer Legislative Aide to U.S. Senator Joseph Tydings.
1968
1967
1965

Other
1974 Researcher and Writer, Investor Responsibility Research Center.
1973 Assistant to the President, Checchi and Company.
1971 Staff Attorney, Administrative Conference of the U.S.

EDUCATION

1970 University of Chicago Law School - J.D.
1967 Vassar College - B.A. magna cum laude
Summer University of Geneva, Geneva Switzerland
1964 (French Language, International law)
Other Gardiner School of Business (typing, shorthand); Berlitz School of Languages (French, Italian); Prealpina Ecole, Chexbres, Switzerland (French Language and literature).

INTERESTS

Travel Have lived in Italy (1968) and France (1982); have traveled to: Belgium, Caribbean Region, Ecuador, Egypt, England, Greece, Guinea, Iran, Israel, Jordan, Kenya, Liberia, Mexico, Nigeria, Philippines, Portugal, Saudi Arabia, Spain, Switzerland, Syria, Tanzania, Turkey, Uganda, U.S.S.R.

Writing Graduate-level courses in poetry, literature and writing

Mr. **Smith**. Do you have people on a reimbursable basis from agencies?

Ms. **Checchi**. We have one detailee who is not detailed full time. We are seeking other detailees; I don't believe we have any yet.

Mr. **Smith**. Are you using any people that you are not required to reimburse?

Ms. **Checchi**. Not that I know of, no. We only have one staff person.

Mr. **Smith**. Is the Leif Erickson society supporting this? [Laughter.]

Ms. **Checchi**. I don't know. I'm not familiar with that.

Mr. **Dwyer**. How about the Irish monk that preceded him? [Laughter.]

Mr. **Smith**. Are you involving educational institutions? Give us an outline of your overall theme and how you expect to carry it out.

Ms. **Checchi**. In answer to your first question, yes. There are various universities and colleges around the country that have been working on this for several years and they're way ahead of us. I can't tell you exactly what has been done. I'm not sure anybody yet knows. One of our primary functions as a commission will be to serve as a clearinghouse because there are many, many activities going on throughout the country, as well as internationally. And there's no one who really knows what they are, much less is coordinating them.

Mr. **Smith**. Do you deal at all with educational television?

Ms. **Checchi**. Yes. That's one of the things we discussed.

Mr. **Smith**. In what way?

Ms. **Checchi**. As of the moment this commission, itself, has not done anything. We have not implemented any such programs. We will be working with NEH, the National Endowment for the Humanities and the National Endowment for the Arts. Their chairmen are members of our commission and both of them are already working on programs such as the one you mentioned. There is a six-part series to be prepared for public television, I believe, under the auspices of NEH. But we, as a commission, are not now directly involved in that. Planning and work began on that long before our commission was put in place.

Mr. **Smith**. Will that be done by volunteer artists, or how will it be done?

Ms. **Checchi**. I don't know because, again, it's an NEH project.

Mr. **Smith**. Does any of your budget pay for it?

Ms. **Checchi**. No. Our budget basically, I think, can be thought of as seed money. We will have the staff to go out and help raise money. Most of the types of projects that you're mentioning, from our perspective, will be funded by private donations one way or the other, and we'll be helping to encourage and cross-fertilize, if you will, what other organizations are doing.

Mr. **Smith**. Is there a "climax week" or a "climax day"?

Ms. **Checchi**. I think it's assumed that this is all pointing towards October 12, 1992, when——

Mr. **Smith**. Is it for a month, or a particular day?

Ms. **Checchi**. That hasn't been decided, but there has been discussion in the commission already that we want it to be an ongoing thing—not our commission, but we want the activities to continue thereafter. And we're not just looking towards one big day of fireworks. We're talking about exchange programs for students; cultural and artistic exchange programs with Latin American countries, with Spain and with Italy; national scholarship programs; possibly a national essay competition. A lot of emphasis on youth, in getting young people involved, preparing educational materials——

Mr. SMITH. Do you anticipate annual appropriations?

Ms. CHECCHI. At this time I understand yes, that an annual appropriation would be requested for succeeding years.

Mr. SMITH. Is it through 1992?

Ms. CHECCHI. Yes.

Our authorizing legislation disbands us in December, 1992.

Mr. DWYER. No questions.

Mr. SMITH. Thank you very much. We may have a few questions we'll submit to you.

Ms. CHECCHI. Fine. Thank you Mr. Chairman.

Mr. SMITH. Thank you very much.

[Recess.]

Questions Submitted by the Honorable Neal Smith

Question 1. The budget request for the Christopher Columbus Commission is $220,000. When do you expect to have the logo for the Commission completed? When do you expect to have the plan for the celebration of the Christopher Columbus Quincentenary completed? What is your time frame for completion of the materials you plan to produce?

Answer. Logo related activities are already progressing. This lengthy and detailed work should result in obtaining a copyright logo by the end of calendar year 1986.

As far as initial plans for the Christopher Columbus Quincentenary, we plan to be finished in early calendar year 1987. Final plans will be completed in time for the September 1987 report to Congress.

Specific material content should be fully compiled by calendar year 1988 with publishing to follow in a phased form leading up to 1992. (Please note the Organizational Phase outline, Attachment A, included in Ms. Checchi's statement.

Question 2. What has private sector contribution and involvement in this celebration amounted to, to date?

Answer. To date, there has been no private sector effort solicited or obtained. Now that the Commission has been staffed we will begin seeking private sector contribution and involvement.

Question 3. Are you working on anything that would involve nationwide elementary school age children?

Answer. Yes, initial and final plans will include activity for nationwide elementary school age children. This area has been designated as one of the key conceptual planning items by the Commission.

Question 4. Are any cultural activities planned, such as here in Washington at the Smithsonian? Are you fully staffed at this time with the three positions that you indicate in your summary of resources on page 6 of the justification? Do you feel that more staff might be necessary?

Answer. Cultural activities are and will be an integral part of our plan. At this date, only concepts have been discussed. Specific activities, events and actions will be generated as the plan is put together. (Please note Attachment B included in Ms. Checchi's statement.)

We are not fully staffed at this point. Two full time positions have been filled and a third position will hopefully be filled by the end of calendar year 1986. In addition, we have one detailee working for the Commission at the present time.

At this date, with only conceptual plans, we cannot accurately assess our personnel needs. As our plans progress, a valid and justifiable personnel complement will be determined.

Questions Submitted by the Honorable George M. O'Brien

Question. 1. What is included under the category "other services"?

Answer. Under the category "other services", an estimated $25,000 is payed to the General Services Administration (GSA) for their administrative support contract. The balance takes care of additional requirements that the Commission may need; such as; support maintenance agreements on equipment leased by the Commission, rental of conference rooms or costs of a firm or individual performing a temporary service for the Commission.

Question. 2. Please provide for the record a breakout of existing personnel and the activities to which they are assigned.

Answer. Currently the Commission has three staff members; two permanent staff and one detailee. Mr. Armin Cruz is the Commission's Director as of February 24, 1986. Miss Christy Marck, as of January 2, 1986, is the Secretary for the Commission. She has been handling all administrative responsibilities including travel reimbursement from the September 1985 Commission meeting and the travel arrangements and planning for the January 1986 Commission meeting. Miss Christine Borchard is the assigned detailee from ACTION Agency and is working mainly with administrative activities.

Question. 3. Do you plan to hire additional staff in FY 1987? If so, how many?

Answer. Yes, at this time in our development it is anticipated that we will hire one additional full time staff person in FY 1987. This person would generally be responsible for clerical and general administrative work. We plan to request detail personnel from heads of Federal agencies in order to help carry out the Commission's duties and responsibilities. In accordance with Public Law 98-375, Section 8(c)(1), these detailees shall be without reimbursement by the Commission but by the Agency from which the employee was detailed.

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TUESDAY, FEBRUARY 18, 1986.

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

WITNESSES

JOHN GAUGHAN, MARITIME ADMINISTRATOR

EARNEST HAWKINS, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

MASON G. NOTTINGHAM, DIRECTOR, OFFICE OF BUDGET

RICHARD E. BOWMAN, ASSOCIATE ADMINISTRATOR FOR MARITIME AIDS

ROBERT PATTON, ACTING CHIEF COUNSEL

ARTHUR FRIEDBERG, DIRECTOR, OFFICE OF MARITIME LABOR AND TRAINING

GARY MISCH, ASSOCIATE ADMINISTRATOR FOR MARKETING AND DOMESTIC ENTERPRISES

OPENING STATEMENT

Mr. DWYER. This afternoon we will begin with the fiscal year 1987 request for the Maritime Administration, within the Department of Transportation. Here to testify is the Administrator of the Maritime Administration, Mr. John Gaughan.

At this point we will insert Mr. Gaughan's biographical sketch in the record.

[The biographical sketch of Mr. Gaughan follows:]

JOHN GAUGHAN, MARITIME ADMINISTRATOR

John Gaughan was sworn-in as Administrator of the Maritime Administration, an agency within the Department of Transportation (DOT), on November 26, 1985, following his nomination to the post by President Reagan on September 19, 1985.

Prior to his appointment, Gaughan served as Deputy Assistant Secretary for Governmental Affairs for DOT. He previously held a number of managerial positions within the Department, including Director of External Affairs of the Maritime Administration.

He joined DOT in 1981 serving as Congressional Relations Officer for maritime and Coast Guard programs. He came to the Department from the Federal Maritime Commission, where he was an attorney.

Gaughan, 38, is a 1970 Coast Guard Academy graduate, and served nine years on active duty, which included command of the cutter *Point Martin*. He holds the rank of Commander in the Coast Guard Reserve.

A native Washingtonian, he received a Bachelor of Science degree from the Coast Guard Academy and a Doctor of Laws degree from the University of Maryland. He is a member of the District of Columbia Bar Association and the Maritime Law Association.

Gaughan and his wife Janelle reside in Bethesda, Md.

Mr. DWYER. The budget request for the Maritime Administration is $320 million in operating-differential subsidies for liquidation of contract authority, and $58,843,000 in new budget authority. This represents a reduction of $17,334,000 in new budget authority from the 1986 adjusted level: At this point we will insert the justifications in the record.

[The justifications follow:]

U.S. Department of
Transportation

BUDGET ESTIMATES

FISCAL YEAR 1987

MARITIME ADMINISTRATION

SUBMISSION TO CONGRESS

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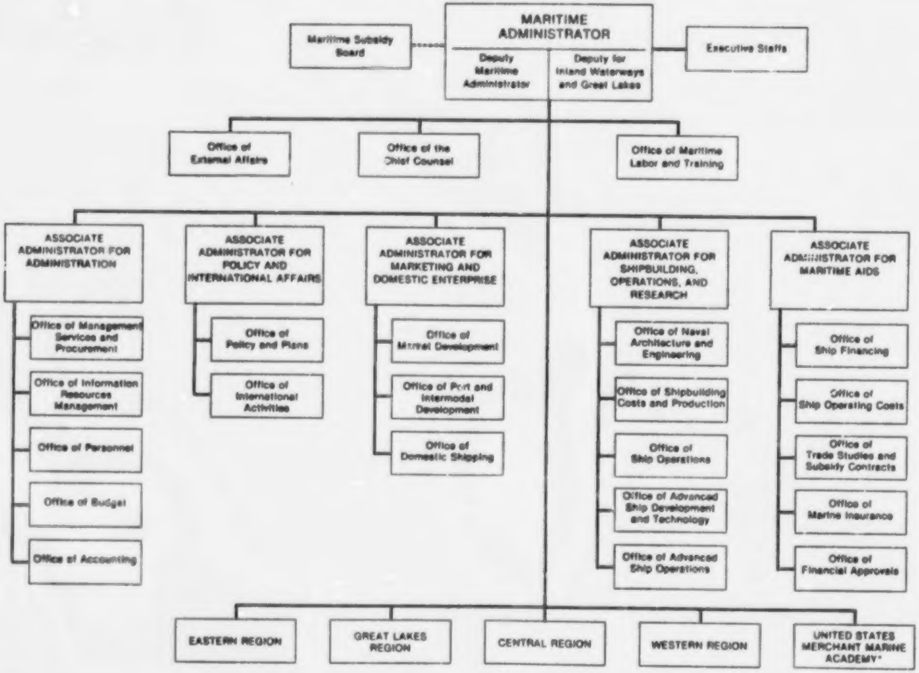
MARITIME ADMINISTRATION


MARITIME ADMINISTRATOR
Deputy Maritime Administrator
Deputy for Inland Waterways and Great Lakes
Maritime Subsidy Board
Executive Staffs
Office of External Affairs
Office of the Chief Counsel
Office of Maritime Labor and Training
ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION
Office of Management Services and Procurement
Office of Information Resources Management
Office of Personnel
Office of Budget
Office of Accounting
ASSOCIATE ADMINISTRATOR FOR POLICY AND INTERNATIONAL AFFAIRS
Office of Policy and Plans
Office of International Activities
ASSOCIATE ADMINISTRATOR FOR MARKETING AND DOMESTIC ENTERPRISE
Office of Market Development
Office of Port and Intermodal Development
Office of Domestic Shipping
ASSOCIATE ADMINISTRATOR FOR SHIPBUILDING, OPERATIONS, AND RESEARCH
Office of Naval Architecture and Engineering
Office of Shipbuilding Costs and Production
Office of Ship Operations
Office of Advanced Ship Development and Technology
Office of Advanced Ship Operations
ASSOCIATE ADMINISTRATOR FOR MARITIME AIDS
Office of Ship Financing
Office of Ship Operating Costs
Office of Trade Studies and Subsidy Contracts
Office of Marine Insurance
Office of Financial Approvals
EASTERN REGION
GREAT LAKES REGION
CENTRAL REGION
WESTERN REGION
UNITED STATES MERCHANT MARINE ACADEMY*

* Kings Point, N.Y.

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General Statement

Under the authority of the Merchant Marine Act, 1936, as amended, and other legislation, the Maritime Administration is responsible for programs to promote a strong U.S. Merchant Marine for the waterborne carriage of U.S. foreign and domestic commerce and for national defense purposes. Emphasis is placed on increasing the competitiveness and productivity of the U.S. shipping and shipbuilding industries.

The following is a comparison of the 1986 appropriations and the 1987 budget estimates for the programs of the Maritime Administration:

(Dollar amounts in thousands)

Appropriations	1986 Appropriation Currently Available		1987 Estimate		Inc.(+) or Dec.(-)		Perm. Emp. 12/31
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	
Operating-differential subsidies (appropriation to liquidate contract authority)............	...	$299,500	...	$320,000	...	$20,500	...
Ocean Freight-differential.......	...	...	...	...	...	...	...
Research and development.........	...	9,900	...	5,500	...	-4,400	...
Operations and training..........	728	69,700	691	53,343[a]	-37	-16,357	718
Total.........................	728	379,100	691	378,843	-37	-257	718

[a] Does not include $9,350,000 proposed to be deferred and brought forward from 1986.

Operating-differential subsidies

Operating-differential subsidies (ODS) are the primary means of Federal financial support for the competitive operation of the U.S.-flag merchant fleet engaged in the foreign commerce of the United States. This program assists in the development and preservation of a modern, efficient and competitive U.S.-flag merchant fleet to serve both the commercial and national security needs of the U.S. by providing operating subsidies to American ship operators, which offset differences between U.S. and foreign operating costs. The 1987 appropriation requested for liquidating cash amounts to $320,000,000, which is $20,500,000 more than the 1986 appropriation.

Ocean freight-differential

P.L. 99-198 mandated an increase from 50 percent to 75 percent over a three-year period in the gross tonnage of concessional agriculture cargoes, such as Food for Peace, that must be carried on U.S.-flag vessels. The law requires the Department of Transportation to reimburse the Department of Agriculture for added ocean freight differential costs as well as the amount which ocean freight costs exceeds 20 percent of the total of the cost of commodities shipped plus ocean freight costs.

The Administration has consistently opposed an expansion or contraction in U.S. cargo preference laws as interpreted prior to the recent District Court decision. Therefore, the budget provides language for 1986 and 1987 that would prohibit the Secretary of Transportation from issuing obligations to finance the expanded cargo preference requirement in P.L. 99-198. Separate repeal legislation will also be proposed.

Research and development

The Research and development program develops concepts, methods, systems, and equipment to improve productivity and operating efficiency in the U.S. shipbuilding and ship operating industries. The 1987 budget proposes to rely more heavily on private sector initiative thereby largely eliminating Federal funding in 1987. This will include efforts to privatize the Computer Aided Operations Research Facility.

Operations and training

The Operations and training appropriation finances costs incurred by headquarters and region staffs in the administration and direction of the various programs established to fulfill Maritime Administration responsibilities as well as the total cost of officer training at the U.S. Merchant Marine Academy and Federal financial support to state marine schools. The 1987 request of $53,343,000 coupled with $9,350,000 proposed to be deferred and bought forward from 1986 is $7,007,000 less than the 1986 appropriation. The net decrease reflects the following changes:

(Dollar amounts in thousands)

(a) Adjustments to base and built-in changes:........			...	+8473
(b) Program changes as follows:				
Merchant Marine Academy: Boiler Plant A/E.......	...	+300		
State marine schools: Discontinued funding..	...	-9,000		
National Security Support Capability: Facilities improvements.........................		+3,855		
Reduced positions/FTE's.........................	-37	-1,755	-37	-7,480
Total program changes...........................			-37	-7,007

Federal Ship Financing Fund

The budget proposes appropriations language permitting no Title XI loan guarantee commitments in FY 1987.

Appropriation Summary Statement

Appropriation: Operating-Differential Subsidies

Operating-differential subsidies (ODS) are the primary means of Federal financial support for the competitive operation of the U.S.-flag merchant fleet engaged in the foreign commerce of the United States. This program helps to maintain a U.S.-flag merchant fleet to serve both the commercial and national security needs of the United States by providing operating subsidies to U.S.-flag ship operators to offset certain differences between U.S. and foreign operating costs.

46 U.S.C. 1171 - 1185 provides that the Maritime Administration may enter into contracts with United States citizens operating vessels in foreign commerce in essential services, and provides for payment of the differential between certain of their operating costs and those of foreign competitors in order to permit operation on a comparable cost basis. Appropriations are provided to liquidate contract authority [46 U.S.C. 1119(b)(3)].

Subsidy is provided for wages, maintenance and repair, and insurance costs. Subsidizable U.S. wage costs are limited through use of a special, non-maritime, U.S. wage index developed by the Bureau of Labor Statistics. Wage costs are also partially controlled through the limitation of manning levels for new subsidized vessels. Payments for maintenance and repair and insurance are based upon the difference between the fair and reasonable cost of these items and what the cost of the same items would be if the vessel were operated under the registry of the flag of a substantial foreign competitor.

Operating-differential subsidy is accrued for ship-days of subsidized operation during the fiscal year. The Administration will again seek elimination of "double subsidy" associated with the carriage of military and premium rated cargo. The 1987 estimate will be adjusted upon enactment of required legislation. A 1987 appropriation of $320,000,000 is requested.

1986 DEFICIT CONTROL ACT REDUCTIONS (P.L. 99-177)

(Dollars in thousands)

No funds have been sequestered for this account. FY 1986 estimates consist solely of prior legal obligations.

Appropriation language and code citations:

1. "For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended,"

46 U.S.C. 1119(b)
46 U.S.C. 1171 - 1185

46 U.S.C. 1119(b) ". . . there are to be authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for - . . . (4) payment of obligations incurred for operating-differential subsidy; . . . only such sums as the Congress may specifically authorize by law: . . . ."

46 U.S.C. 1171 - 1185 generally provides that the Maritime Administration may enter into contracts with United States citizens operating vessels in foreign commerce in essential services, and provides for payment of the differential between certain of their operating costs and those of foreign competitors in order to permit competition on a comparable cost basis.

2. "$320,000,000 to remain available until expended."

No Specific Authority

31 U.S.C. 718 provides that: "No specific or indefinite appropriation . . . shall be construed to be permanent or available continuously without reference to a fiscal year . . . unless it is made in terms expressly providing that it shall continue available beyond the fiscal year for which the Appropriation Act in which it is contained makes provision."

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Operating-differential subsidies

Page No.	Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount
	Appropriation currently available, 1986 (1987 base)........................	...	$299,500

		1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-) Over 1987 Base	
	Comparison by activity:	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
MA-9	Liner and bulk carrier operators..............	...	$338,057	...	$299,500	...	$299,500	...	$320,000	...	+$20,500
	Appropriation withdrawal.........	...	-39,693	...	...	...	...	...	...	...	...
	Appropriation........	...	377,750	...	299,500	...	299,500	...	320,000	...	+20,500
			(338,057)		(299,500)		(299,500)		(320,000)		(+20,500)

Note: Dollar amounts in parentheses represent obligations.

Justification of Program and Performance

Activity: Liner and bulk carrier operators

(Dollar amounts in thousands)

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	No. of Ships	Amount	No. of Ships	Amount	No. of Ships	Amount	No. of Ships	Amount	No. of Ships	Amount
Liner operators..........	83	$299,280	87	$264,386	87	$264,386	73	$273,600	(-14)	+$9,214
Bulk carrier operators.............	13	38,777	17	35,114	17	35,114	17	46,400	...	+11,286
Program changes..........	...	...	...	...	...	...	...	...	...	...
Total contract authority...............	96	338,057	104	299,500	104	299,500	90	320,000	(-14)	+20,500

Goals and Objectives

Goals: The competitive operation of a modern and efficient U.S.-flag merchant fleet to serve both the commercial foreign trade and national security needs of the United States.

Objectives: To provide operating subsidies to American ship operators to offset differences between the costs of U.S. and foreign-flag ships operating in the essential foreign trades of the United States;

To encourage and maintain U.S.-flag participation in the foreign trade of the United States; and

To encourage the responsiveness of the U.S-flag fleet to the foreign trade and national security objectives of the United States.

Base Program

The presence in the United States foreign trade of U.S.-flag ships, owned, operated and manned by citizens of the United States, permits the immediate availability of ships with experienced crews when necessary to the national security of the United States. The U.S.-flag fleet has provided support during every major military deployment in the history of the United States. Additionally, the United States, as the world's largest trading nation, has an interest in maintaining this mode of transportation for its foreign trade.

Changes for 1987

	1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	No. of Ships	Amount	No. of Ships	Amount	No. of Ships	Amount
Liner Operators..	87	$264,386	73	$273,600	(-14)	+$9,214
Bulk Carrier Operators................................	17	35,114	17	46,400	...	+11,286

The requested increases for liner and bulk ship operators reflect a decrease of 14 in the number of subsidizable vessels estimated for the liner trades offset by increases in the net effect of foreign and domestic cost changes. These changes include expiration during 1987 of the United States Lines, Inc. subsidy contract.

Summary of Requirements by Object Class
(Dollar amounts in thousands)

Appropriation: Operating-differential subsidies

Object class	1987 Base			1987 Estimate			Inc.(+) or Dec.(-)		
	Pos.	Workyears	Amount	Pos.	Workyears	Amount	Pos.	Workyears	Amount
Other objects:									
41 Grants, subsidies, and contributions...........	...	...	$299,500	...	...	$320,000	...	...	+$20,500

Appropriation Summary Statement

Appropriation: Ocean freight differential

The Maritime Administration is required to finance ocean freight differential costs of increased carriage in U.S.-flag ships of concessional agricultural commodities exported pursuant to Section 901, Merchant Marine Act, 1936, as amended by P.L. 99-198. This law mandated (a) an increase from 50 percent to 75 percent over a three year period in the gross tonnage of specified concessional agricultural cargoes that must be carried on U.S.-flag vessels, and (b) also established a minimum level of agricultural commodities to be exported. While the U.S. Department of Agriculture will continue to be responsible for the ocean freight differential costs of 50 percent that must move in U.S.-flag ships, P.L. 99-198 requires the Department of Transportation to fund the marginal ocean freight differential costs above 50 percent not to exceed 60 percent in the first year, 70 percent in the second year and 75 percent in the third and subsequent years. Further, the Act also requires that the Secretary of Transportation reimburse the Department of Agriculture for the amount which their total ocean freight and ocean freight differential costs in any fiscal year exceeds 20 percent of the cost of the commodities shipped plus ocean freight.

Justification of Proposed Language Change

None of the funds provided in this Act or any other Act shall be available to the Secretary of Transportation to issue any obligations to the Secretary of Treasury pursuant to Sections 901(b) and 901(d), Merchant Marine Act, 1936, as amended by P.L. 99-198.

The Administration has consistently opposed an expansion or contraction in U.S. cargo preference laws as they existed prior to the recent District Court decision. Expansion in preference cargoes required by P.L. 99-198 will result in additional costs at a time when Federal spending deficits must be reduced. Therefore, the budget proposes language for 1986 and 1987 that would prohibit the Secretary of Transportation from issuing obligations to finance the costs pursuant to P.L. 99-198. Separately, the Administration is proposing authorization legislation to repeal the pertinent sections of P.L. 99-198.

If the Congress does not act on the Administration's proposed 1986 supplemental appropriations or substantive legislation, program implementation would commence on April 1, 1986 based on borrowing authority embedded in the Act. Borrowings of an estimated $48,000,000 in 1986 and $120,000,000 in 1987 would be required.

Appropriation Summary Statement

Appropriation: Research and Development

1986 and 1987 will be a transitional period in which the program will focus on: (1) movement toward greater private sector initiative in the conduct of maritime research and development, and (2) privatization of the Computer Aided Operations Research Facility (CAORF). The budget proposes no research and development appropriation after FY 1987.

Advanced ship development - This activity seeks to improve the design and construction of new ships. It includes projects on the building of ships, and the machinery to power ships. Funding is not sought for this program in 1987.

Advanced ship operations - This activity provides information and evaluates technology to aid in improving the operating efficiency, productivity and safety of U.S. ships. A reduced program in 1987 could complete ongoing activities in the mission areas of maritime safety, intermodal cargo handling, military sealift and port planning and operations.

Research facilities - This activity performs fundamental ship research through simulation. Investigations of basic ship design and ship operation problems are performed addressing such problems as navigation in restricted waterways and harbors.

The funding level required for this activity is based on the difference between total cost of operating CAORF and the amount of reimbursements received from other government agencies and private companies utilizing the facility.

Consistent with the Administration's philosophy of transferring to the private sector activities that are not inherently governmental, 1987 will focus on "privatizing" the CAORF simulation facility, thereby eliminating the need for MARAD funding in 1988 and beyond. Program activities will be managed to ensure that all current government commitments to conduct simulation research projects will be completed in 1987.

Advanced maritime technology - This activity addresses the more basic areas of ship research. Hydrodynamics, structures, and propellers are studied to help make ships more efficient and safe. A reduced program will address in 1987 economic trends and other institutional issues.

The requested research budget for 1987 is $5,500,000, a reduction of $4,400,000 from 1986.

1986 DEFICIT CONTROL ACT REDUCTIONS (P.L. 99-177)
(Dollars in thousands)

	1986 Appropriation	4.3% Reductions	Adjusted Appropriation
Advanced ship development..........	$2,965	-$127	$2,838
Advanced ship operations...........	2,525	-109	2,416
Research facilities................	2,860	-123	2,737
Advanced maritime technology.......	1,550	-67	1,483
Total..............................	9,900	-426	9,474

Appropriation language and code citations:

1. "For necessary expenses for research and development activities, as authorized by law,"

46 U.S.C. 1119(b)
46 U.S.C. 1121(j)
46 U.S.C. 1122(c) (f)
46 U.S.C. 1205

46 U.S.C. 1119(b) ". . . there are to be authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for - . . . (5) expenses necessary for research and development activities . . . only such sums as the Congress may specifically authorize by law: . . .".

46 U.S.C. 1121 "The Secretary of Transportation is authorized and directed to investigate, determine, and keep current records of - . . . (j) New designs, new

methods of construction, and new types of equipment for vessels; the possibilities of promoting the carrying of American foreign trade in American vessels; and intercoastal and inland water transportation, including their relation to transportation by land and air".

46 U.S.C. 1122 "The Secretary of Transportation is authorized and directed - . . . (c) To collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, . . . (f) To study means and methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States, . . .".

46 U.S.C. 1205 "The Secretary of Transportation, for the purpose of practical development, trial, and testing, is authorized . . . to operate . . . vessels owned by the United States . . .".

2. "$5,500,000, to remain available until expended."

No Specific Authority

31 U.S.C. 718 provides that: "No specific or indefinite appropriation . . . shall be construed to be permanent or available continuously without reference to a fiscal year . . . unless it is made in terms expressly providing that it shall continue available beyond the fiscal year for which the appropriation Act in which it is contained makes provisions."

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Research and development

Page No.	Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount
	Appropriation currently available, 1986 (1987 base)......................	...	$9,900

Page No.	Comparison by activities:	1985 Actual Perm. Pos.	1985 Actual Amount	1986 Currently Available Perm. Pos.	1986 Currently Available Amount	1987 Base Perm. Pos.	1987 Base Amount	1987 Estimate Perm. Pos.	1987 Estimate Amount	Inc.(+) or Dec.(-) Over 1987 Base Perm. Pos.	Inc.(+) or Dec.(-) Over 1987 Base Amount
MA-20	Advanced ship development..........	...	$2,965 (2,308)	...	$2,965 (2,965)	...	$2,850 (2,850)	...	... (...)	...	-$2,850 (...)
MA-21	Advanced ship operations...........	...	2,525 (4,243)	...	2,525 (2,525)	...	2,525 (2,525)	...	$1,900 (1,900)	...	-625 (-625)
MA-22	Research facilities....	...	2,860 (4,320)	...	2,860 (3,038)	...	2,975 (2,975)	...	2,975 (2,975)	...	... (...)
MA-23	Advanced maritime technology...........	...	1,550 (1,937)	...	1,550 (1,550)	...	1,550 (1,550)	...	625 (625)	...	-925 (-925)
	Total requirements......	...	9,900 (12,808)	...	9,900 (10,078)	...	9,900 (9,900)	...	5,500 (5,500)	...	-4,400 (-4,400)

Note: Dollar amounts in parentheses represent obligations.

Justification of Program and Performance

Activity: Advanced ship development

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-) Over 1987 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Advanced ship development	...	$2,965 (2,300)	...	$2,965 (2,965)	...	$2,850 (2,050)	...	...	...	-$2,850 (-2,850)

Goals and Objectives

Goals: To improve the design of U.S. merchant vessels and increase the competitiveness and productivity of the U.S. shipbuilding industry and ensure its capability to construct ship types that will meet future market and military sealift requirements.

Objectives: To implement government funded research activities of the Advanced ship development program; to provide industry, wherever possible, with assistance to foster continuation of such programs.

Base Program

Shipbuilding research projects funded in 1986 cover ten different program areas such as facilities engineering, shipbuilding standards, welding and industrial engineering. The base program will continue the emphasis on fundamental research in the high cost areas of the ship construction and fabrication assembly. The program will continue research on the integration of education and training concepts supporting zone construction and focus on scheduling and management of shipbuilding labor, materials and facilities. Additional program efforts will be conducted in research areas addressing diesel technology and ceramic coatings. From its inception, the Shipbuilding Research program has generated support from industry; since 1982, the U.S. Navy has been an active participant. 1987 efforts will focus on shifting MARAD's program initiative to the industry.

Changes for 1987

	1987 Base		1987 Estimate		Inc.(+)or Dec(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Advanced ship development	...	$2,850	...	...	...	-$2,850

Funds are not sought for Advanced ship development activities in 1987 resulting in a savings of $2,850,000. During 1987, shipyards will be completing a backlog of program work contracted in the prior years.

Activity: Advanced ship operations

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-) Over 1986 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Advanced ship operations	...	$2,525 (4,243)	...	$2,525 (2,525)	...	$2,525 (2,525)	...	$1,900 (1,900)	...	-625 (-625)

Goals and Objectives

Goals: To improve the long-term productivity, competitiveness and safety of U.S. vessels and terminal operations.

Objectives: To implement government funded research and development activities of the Advanced ship operations program; and to provide industry, wherever possible, with assistance to foster the continuation of such programs.

Base Activities

Advanced ship operations activities focus on developing and implementing new techniques and technology for increasing productivity, safety and competitiveness in vessel and terminal operations. Industry segments addressed include transocean, offshore, coastal, and inland waterway and Great Lakes services. Research in 1987 includes mission support areas such as maritime safety, military sealift, cargo handling, fleet productivity and port planning and operations.

Changes for 1987

	1987 Base		1987 Estimate		Inc.(+)or Dec(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Advanced ship operations..................................	...	$2,525	...	$1,900	...	-$625

Conclusion of the following near-term research activities will result in a savings of $625,000 in the 1987 program: 1) base activities to reduce fuel costs will be curtailed in 1987 as initial project objectives have been reached; and 2) activities to improve computer/communications technology will additionally be reduced. Industry will be encouraged to continue such activities without government funding.

Activity: Research facilities

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-) Over 1987 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Research facilities.........	...	$2,860 (2,352)	...	$2,860 (4,320)	...	$2,975 (3,038)	...	$2,975 (2,975)	... ...	...

Goals and Objectives

Goals: To provide land-based experimental facilities and research capability for solving ship operating problems at less cost, less risk and in much less time than by at-sea testing and evaluation.

Objectives: To complete all of MARAD's outstanding commitments made to customers requiring ship handling simulation research; to "privatize" the Computer Aided Operations Research facility (CAORF).

Base Program

The Computer Aided Operations Research Facility (CAORF) conducts basic simulation research in: navigation and vessel control, port and waterway design and operations, training and certification, and vessel maneuvering. Although a computer generated image simulator is at the core of CAORF, the facility also conducts fast-time simulation and a variety of off-line research projects.

Consistent with the Administration's philosophy of transferring to the private sector activities that are not inherently governmental, efforts will be initiated in FY 1986 to "privatize" CAORF. This policy would have the following benefits: 1) eliminating the need for appropriated funds for CAORF beginning in FY 1988; and 2) increasing the research initiative of the private sector.

MARAD plans to solicit proposals in 1986 from prospective organizations interested in taking over CAORF. Government-sponsored operations at CAORF would continue through FY 1986, and into FY 1987 as required. This would ensure that all research projects currently underway at CAORF for a variety of customers (U.S. Navy, Panama Canal Commission and the U.S. Corps of Engineers) would be completed. Funding requested in 1987 would therefore be used for completing government operations and for seed money in assisting the private operator to make any necessary refurbishment to the facility.

Activity: Advanced maritime technology

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-) Over 1987 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Advanced maritime technology...	...	$1,750 (1,937)	...	$1,550 (1,550)	...	$1,550 (1,550)	...	$1,550 (625)	...	-925 (-925)

Goals and Objectives

Goals: To solve long-term problems in marine transportation, by supporting basic research and investigating concepts to develop advanced technologies.

Objectives: To implement government funded research activities of the Advanced maritime technology program; and,

to provide industry, wherever possible, with assistance to foster the initiation of their research efforts.

Base Program

Many of the problems that beset ship operators are rooted in the need for a more fundamental understanding of maritime technology. This program addresses the fundamental problems of science and those problems pertaining to new and unique markets reflecting on the potential for U.S. flag shipping opportunities.

1986 will be the last year of funding for advanced ship systems research. Instead, the reduced 1987 program will focus on market analysis, long-term technological and economic trends and various maritime issues pursued by colleges and universities.

Changes for 1987

	1987 Base		1987 Estimate		Over 1987 Base	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Advanced maritime technology..........................	...	$1,550	...	$625	...	-$925

Conclusion of government funded research activities in the advanced ship systems area will result in a savings of $925,000 in the 1987 program. Industry will be encouraged to continue research addressing navigation/communications and improved ship maneuvering on their own initiative.

Summary of Requirements by Object Class
(Dollar amounts in thousands)

Appropriation: Research and Development

Object class		1987 Base			1987 Estimate			Inc.(+) or Dec.(-)		
		Perm. Pos.	Workyears	Amount	Perm. Pos.	Workyears	Amount	Perm. Pos.	Workyears	Amount
	Other objects:									
25	Other services............	...	...	$7,720	...	...	$5,320	...	...	-$2,400
26	Supplies and materials....	...	...	150	...	...	150	...	...	...
31	Equipment................	...	...	30	...	...	30	...	...	...
41	Grants...................	...	...	2,000	...	...	...	...	...	-2,000
	Total requirements......	...	...	9,900	...	...	5,500	...	...	-4,400

Appropriation Summary Statement

Appropriation: Operations and Training

This appropriation finances costs incurred by headquarters and region staffs in the administration and direction of Maritime Administration programs as well as the total cost of officer training at the U.S. Merchant Marine Academy, Federal financial support to state marine schools, and maintenance of the National Defense Reserve Fleet.

Principal activities within the Operations and training appropriation are described as follows:

Maritime Education and Training:

Merchant marine academy - This activity finances operation of the U.S. Merchant Marine Academy at Kings Point, New York. The Academy provides a four-year undergraduate program which leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant Engineer. Academy attendees are enrolled as midshipmen in the U.S. Naval Reserve and, if eligible, are commissioned upon graduation as ensigns in the Naval Reserve.

State marine schools - In 1986, this activity will provide assistance for the training of merchant marine officers in state schools: (1) through direct payments to the schools for operation and maintenance of maritime academies or colleges; (2) through incentive payments for cadets; (3) by furnishing vessels, including their alteration, maintenance and repair, for use as training ships; and (4) fuel to operate the training ships. In 1987, Federal aid will be discontinued with the exception of continuing incentive payments to cadets currently enrolled in the program. The current and projected oversupply of officers makes continued Federal suppport unjustifiable. The Administration will explore alternatives for allowing the State marine schools to continue using the existing training vessels at no cost to the Federal Government.

Additional training - This activity provides for administration of the Merchant Marine Academy and state marine schools programs at the Bureau level, for the conduct of supplementary training courses for licensed and unlicensed merchant marine personnel, and for costs of developing and maintaining current data on the maritime labor force.

National Security Support Capability:

This activity provides for preservation maintenance of ships retained for national emergencies in the National Defense Reserve Fleet, administration of the ship transfer and ship disposal programs, and planning for coordination of U.S. maritime industry activities under emergency conditions.

Operating programs:

Development of waterborne transportation systems - This activity provides for program costs not otherwise funded and administrative costs of programs established to promote the development and construction of cost-competitive U.S. merchant ships, and to aid shipowners in obtaining the private investment capital needed to undertake ship construction programs.

Use of waterborne transportation systems - This activity provides for program costs not otherwise funded and administrative costs of programs whose purpose is to support and improve U.S.-flag ship operations in the foreign and domestic trades of the United States.

General administration - This activity covers executive direction and general administrative functions, including accounting, budget, personnel, management, legal and other associated administrative support functions.The total Operations and training appropriation requested for 1987 is $53,343,000, which, coupled with $9,350,000 to be deferred and brought forward from 1986, will provide for a total 1987 program level of $62,693,000, $7,007,000 below the 1986 appropriation. The $9,350,000 deferral consists of funds appropriated in 1984 for replacement of the New York State Maritime Academy training ship ($8,500,000) and fuel ($850,000). The net reduction reflects elimination of funding for state marine school training ship fuel which had been added by Congress in 1986 ($1,000,000), discontinuance of ongoing financial support to state maritime schools and reduced payments to cadets ($9,880,000), and a general reduction in administrative and program expenses (37 FTE, $1,755,000). These reductions are offset by additional funding for facility design work at the Merchant Marine Academy ($300,000), major facility maintenance at the National Defense Reserve Fleet sites ($3,855,000), and a net increase in the cost of goods and services ($1,473,000).

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 (P.L. 99-177)
(Dollars in thousands)

	1986 Appropriation	4.3% Reductions	Adjusted Appropriation
Merchant Marine Academy			
Midshipmen costs..................	$3,911	-$168	$3,743
Instructional program............	6,006	-258	5,748
Maintenance, repair and operating requirements.....	6,281	-270	6,011
Modernization program............	...	...	...
Program direction and administration.................	3,435	-148	3,287
Subtotal, Merchant Marine Academy................	19,633	-844	18,789

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	1986 Appropriation	4.3% Reductions	Adjusted Appropriation
State marine schools			
Direct payments..................	600	-26	574
Student incentive payments.......	2,315	-100	2,215
Maintenance and repair of ships..	8,000	-344	7,656
Maintenance and repair-layup.....	...	...	...
Fuel.............................	1,000	-43	957
Subtotal, state marine schools.	11,915	-513	11,402
Additional training................	1,135	-49	1,086
National security support capability			
National defense reserve fleet...	7,955	-342	7,613
Emergency planning/operations....	1,518	-65	1,453
Subtotal, National security support capability............	9,473	-407	9,066
Operating programs			
Development of waterborne transportation systems..........	2,212	-95	2,117
Use of waterborne transportation systems..........	6,344	-273	6,071
General administration...........	18,988	-816	18,172
Subtotal, operating programs....	27,544	-1,184	26,360
Total requirements.................	69,700	-2,997	66,703

In 1986 4.3 percent was sequestered to implement the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177). The initial impact is shown in the table above.

Justification of Proposed Language Change

"...Provided further, That $8,500,000 made available in Public Law 98-396 for the acquisition and preversion costs for a training vessel shall be available until expended for expenses of operations and training activities...."

This language has been proposed in order to authorize use of funds previously appropriated for replacement of the State University of New York Maritime College's training ship to offset the request for additional appropriations in 1987. The Second Supplemental Appropriations Act, 1984, P.L. 98-396, provided $8,500,000 for the, "...activation and preconversion costs for a training vessel to be used at the State University of New York Maritime College..." This budget proposes to discontinue all financial support to State maritime academies, and a deferral which includes this item is being forwarded to the Congress.

Appropriation language and code citations:

1. "For necessary expenses of operations and training activities authorized by law,"

5 U.S.C. 5901
5 U.S.C. 5902
46 U.S.C. 1111(d)
46 U.S.C. 1119(b)
46 U.S.C. 1295 b, c, d
50 U.S.C. App. 1744

5 U.S.C. 5901 ". . . . The head of the agency concerned, out of funds made available by the appropriation, shall - (1) furnish to each of these employees a uniform at a cost not to exceed $125 a year; or (2) pay to each of these employees an allowance for a uniform not to exceed $125 a year."

5 U.S.C. 5902 ". . . each of the respective maximum uniform allowances in effect on April 1, 1966, for the respective categories of employees to whom uniform allowances are paid under section 5901 of this title are increased, . . .".

46 U.S.C. 1111(d) ". . . the Secretary of Transportation may make such expenditures as are necessary in the performance of their functions from funds made available to them by this chapter . . .".

46 U.S.C. 1119(b) ". . . there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for . . . (6) reserve fleet expenses; (7) maritime training at the Merchant Marine Academy at Kings Point, New York; (8) financial assistance to State maritime academies under section 1304 of this Act; . . . (10) expenses necessary for additional training provided under section 1305 of this Act; (11) expenses necessary to carry out Title XIII of this Act; and (12) other operations and training expenses . . .; only such sums as the Congress may specifically authorize by law: . . .".

46 U.S.C. 1295b "The Secretary shall maintain the Academy for providing instruction to individuals to prepare them for service in the merchant marine of the United States".

46 U.S.C. 1295c "The Secretary shall cooperate with and assist any State maritime academy in providing instruction to individuals to prepare them for service in the merchant marine of the United States".

46 U.S.C. 1295d "The Secretary may provide additional training on maritime subjects, as the Secretary deems necessary, to supplement other training opportunities . . .".

50 U.S.C. App. 1744 "The Secretary of Transportation shall place in a national defense reserve (1) such vessels owned by the Department of Transportation as, after consultation with the Secretary of the Army and the Secretary of the Navy, deems should be retained for the national defense . . . all vessels placed in such reserve shall be preserved and maintained by the Secretary of Transportation for the purpose of national defense".

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Operations and training

Page No.	Summary of adjustments to base and built-in changes:	Perm. Pos.	Amount	Perm. Pos.	Amount
MA-35	Appropriation currently available, 1986			728	$69,700
	Adjustments to base and built-in changes:				
	Increases	...	+ $1,473		
	Decreases	...	-1,000		
	Subtotal, adjustments to base and built-in changes			...	473
	1987 base			728	70,173

Page No.	Comparison by activities:	1985 Actual Perm. Pos.	1985 Actual Amount	1986 Currently Available Perm. Pos.	1986 Currently Available Amount	1987 Base Perm. Pos.	1987 Base Amount	1987 Estimate Perm. Pos.	1987 Estimate Amount	Inc.(+) or Dec.(-) Over 1987 Base Perm. Pos.	Inc.(+) or Dec.(-) Over 1987 Base Amount
MA-36	Maritime Labor and Training:										
MA-39	Merchant Marine Academy	218 (229)	$19,600 (19,898)	218 (238)	$19,633 (21,496)	218 (238)	$19,978 (19,978)	218 (238)	$20,278 (20,278)	... ...	$300 (300)
MA-40	State Marine Schools	... ...	18,200 (19,777)	... ...	11,915 (12,935)	... ...	10,915 (10,915)	... ...	1,035 (1,035)	... ...	-9,880 (-9,880)
	Additional Training	20 (20)	1,525 (1,135)	20 (19)	1,135 (1,235)	20 (19)	1,135 (1,135)	20 (19)	1,135 (1,135)	... ...	... (...)

	Comparison by activities:	1985 Actual Perm. Pos.	1985 Actual Amount	1986 Currently Available Perm. Pos.	1986 Currently Available Amount	1987 Base Perm. Pos.	1987 Base Amount	1987 Estimate Perm. Pos.	1987 Estimate Amount	Inc.(+) or Dec.(-) Over 1987 Base Perm. Pos.	Inc.(+) or Dec.(-) Over 1987 Base Amount
MA-41	National Security Support Capability....	173 (166)	9,578 (9,338)	161 (170)	9,473 (9,673)	161 (170)	9,566 (9,566)	161 (170)	13,421 (13,421)	... (...)	3,855 (3,855)
MA-44	Operating Programs:										
MA-46	Development of waterborne transportation systems...........	46 (37)	2,341 (2,183)	43 (41)	2,212 (2,212)	43 (41)	2,212 (2,212)	37 (35)	1,905 (1,905)	-6 (-6)	-307 (-307)
MA-47	Use of Waterborne Transportation Systems...........	139 (139)	6,563 (6,843)	128 (124)	6,344 (6,344)	128 (124)	6,344 (6,344)	123 (119)	6,036 (6,036)	-5 (-5)	-308 (-308)
MA-47	General Administration....	168 (212)	19,660 (22,106)	158 (200)	18,988 (19,403)	158 (200)	20,023 (20,023)	132 (174)	18,883 (18,883)	-26 (-26)	-1,140 (-1,140)
	Total requirements......	764 (803)	77,467 (81,280)	728 (792)	69,700 (73,298)	728 (792)	70,173 (70,173)	691 (755)	62,693 (62,693)	-37 (-37)	-7,480 (-7,480)
	Financing from prior year balances.......								-9,350		
	Appropriation.........								53,343		

Note: Permanent position figures in parentheses represent total workyears; dollar amounts in parentheses represent obligations.

Justification of Adjustments to Base and Built-in Changes
(Dollar amounts in thousands)

Increases	Perm. Pos.	Amount
Rent, communications and utilities	...	1,035
Other services	...	314
Supplies	...	124
Subtotal, increases	...	1,473

	Perm. Pos.	Amount
Rent, communications and utilities	...	+1,035

$1,035,000 is requested for the increased cost of space in the Nassif Building based on the estimate provided by the General Services Administration.

	Perm. Pos.	Amount
Other services	...	+314

$314,000 is requested to maintain the level of other services funded by the agency using the Federal non-defense non-pay purchases deflator of 4.1 percent. Of the amount requested, $252,000 is for the Merchant Marine Academy and $62,000 for the National Defense Reserve Fleet.

	Perm. Pos.	Amount
Supplies	...	+124

$124,000 is requested to maintain the level of supplies funded by the agency using the Federal non-defense non-pay purchases deflator of 4.1 percent. Of the amount requested $93,000 is for the Merchant Marine Academy and $31,000 for the National Defense Reserve Fleet.

Decreases	Perm. Pos.	Amount
State marine schools training ship fuel	...	-1,000

The Congress added $1,000,000 in 1986 for payment of costs of fuel consumed by the State Maritime Academy training ships when used for purposes of training. Costs of fuel are considered to be an operating cost under the control of the individual schools and as such should be funded by these schools. The budget proposes to terminate in 1987 all Federal support to the State marine schools except for outstanding commitments for student incentive payments to currently enrolled students.

Justification of Program and Performance

Activity: Maritime education and training

(Dollar amounts in thousands)

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Merchant Marine Academy										
Midshipmen costs......	...	$3,966	...	$3,911	...	$4,048	...	$4,048	...	...
	...	(3,845)	...	(3,911)	...	(4,048)	...	(4,048)		
Instructional program.	104	6,005	101	6,006	101	6,048	101	6,048	...	...
	(108)	(6,993)	(114)	(6,006)	(114)	(6,048)	(114)	(6,048)		
Maintenance, repair and operating requirements........	34	6,243	38	6,281	38	6,437	38	6,437	...	...
	(34)	(5,591)	(38)	(6,444)	(38)	(6,437)	(38)	(6,437)		
Modernization program.	...	...	...	...	...	...	...	300	...	300
	...	(...)	...	(1,700)	...	(...)	...	(300)		
Program direction and administration......	80	3,386	79	3,435	79	3,445	79	3,445	...	...
	(87)	(3,469)	(86)	(3,435)	(86)	(3,445)	(86)	(3,445)		
Subtotal, Merchant Marine Academy......	218	19,600	218	19,633	218	19,978	218	20,278	...	300
	(229)	(19,898)	(238)	(21,496)	(238)	(19,978)	(238)	(20,278)		

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
State marine schools										
Direct payments........	... ...	600 (600)	... ...	600 (600)	... ...	600 (600)	... ...	... (...)	...	-600
Student incentive payments.............	... ...	2,600 (2,600)	... ...	2,315 (2,315)	... ...	2,315 (2,315)	... ...	1,035 (1,035	...	-1,200
Maintenance and repair of ships.............	... ...	13,000 (14,577)	... ...	8,000 (9,020)	... ...	8,000 (8,000)	... ...	... ...	...	-8,000
Fuel...................	... ...	2,000 (2,000)	... ...	1,000 (1,000)	... ...	... ...	... ...	... ...	...	...
Subtotal, State Marine Schools..............	... ...	18,200 (19,777)	... ...	11,915 (12,935)	... ...	10,915 (10,915)	... ...	1,035 (1,035)	...	-9,000
Additional training.....	20 (20)	1,525 (1,135)	20 (19)	1,135 (1,235)	20 (19)	1,135 (1,135)	20 (19)	1,135 (1,135)	...	...
Total requirements......	238 (249)	39,325 (40,810)	238 (257)	32,683 (35,666)	238 (257)	32,028 (32,028)	238 (257)	22,440 (22,440)	...	-9,580

Goals and Objectives

Goals: To maintain programs to assure the availability of a trained and efficient officer corps for the U.S. Merchant Marine in numbers sufficient to (1) meet the demand for deck and engineering officers in the foreign and domestic waterborne commerce of the United States, and (2) provide a military auxiliary in time of war or national emergency;

To develop and maintain a trained and efficient U.S.-citizen work force to man U.S.-flag ships, and increase ship operating safety and through training programs; and

Objectives: To conduct training programs that will yield highly trained deck and engineering officers for employment in the U.S. merchant marine and that meet accreditation standards, and provide the facilities at the Merchant Marine Academy at acceptable standards.

Provide program direction and administration of the U.S. Merchant Marine Academy and State marine schools program at the headquarters level; provide diesel and firefighting training opportunities that are not available from other sources; and develop standard maritime industry employment and wage information.

Base Program

Merchant marine academy - The Merchant Marine Academy at Kings Point, New York offers a four-year undergraduate program which leads to a Bachelor of Science degree and to a merchant marine license as Third Mate or Third Assistant Engineer. In addition, the students are enrolled as midshipmen in the U.S. Navy Reserve and, if eligible, are commissioned upon graduation as ensigns in the U.S. Navy Reserve. The Academy currently graduates approximately 200 new officers annually, and it is estimated that 180 will graduate when prior year reductions takes full effect in 1989. The Academy budget request is presented in five programs described below:

The Midshipmen costs program provides funds for uniforms and textbooks; travel expenses for the entering and graduating classes, at-sea training, and for midshipman academic and extracurricular activities; food service and dairy products contracts; medical and dental expenses; purchase of library books; and related expenses.

The Instructional program provides positions and funds for the academic program. Included in this program are the Dean, Registrar, faculty, and their supporting staffs and the library staff; and funds for the purchase of new or replacement equipment and supplies for the academic program.

The Maintenance, repair, and operating requirements program provides positions and funds for maintenance, repair, and operation of the Academy's buildings and grounds; the security staff; utilities; and payments to local governments for common support services.

The Modernization program provides funding for renovating and upgrading older facilities at the Merchant Marine Academy.

Program direction and administration provides positions and funds for the executive, regimental and administrative staffs and associated administrative costs.

State marine schools - The Merchant Marine Act, 1936, as amended (46 U.S.C. 1295c) states that the Secretary of Transportation (Maritime Administration) may assist and cooperate with States in the operation and maintenance of maritime academies or colleges for the training of merchant marine officers to meet the national objectives. Six States participate in this program: California, Maine, Massachusetts, Michigan, New York, and Texas. Assistance is currently provided the State marine schools by direct annual payments of $100,000 to each school; incentive payments in support of cadets amounting to $1,200 per academic year for each subsidized cadet; and for the five oceangoing schools, provision of suitable Federally-owned vessels for use as training ships, including their alteration, maintenance and repair, to meet U.S. Coast Guard certification requirements and classification standards set by the American Bureau of Shipping. The academies have been graduating about 600 officers annually. However, due to the continuing oversupply of merchant marine officers, there is no longer reasonable justification for continued support by the Federal Government. Therefore, funding for this program will be discontinued except for honoring student incentive payments to individuals already enrolled and under contract with the government.

Additional training - The Additional training program funds the personnel services and supporting costs associated with administration of the Merchant Marine Academy at the Bureau level, and maintenance of current data on the maritime industry labor force and collective bargaining agreements in the maritime industry. Also funded are program administration and operating costs of regional schools which provide training in shipboard firefighting, and marine diesel engineering courses which are conducted using the facilities of the Merchant Marine Academy.

Program Changes

	1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Merchant marine academy -						
Modernization program................................	...	...	...	300	...	300

$300,000 is requested for architectural/engineering (A/E) services for either renovating or replacing the heating plant. The boilers have been in continuous use since 1943. A requirements/economics study will be conducted in 1986 to determine the economics of renovation or the requirement for replacement. The evaluation to be done in FY 1986 will provide the basis for the decision to renovate or replace. The requested A/E will provide the detailed design and bid specifications for the work that is required and will also include design work for renovation/replacement of the 40 year primary heat distribution system and other related areas. Funding for the renovation/replacement will be submitted in a subsequent budget.

	1987 Base Perm. Pos.	1987 Base Amount	1987 Estimate Perm. Pos.	1987 Estimate Amount	Inc. (+) or Dec. (-) Perm. Pos.	Inc. (+) or Dec. (-) Amount
State marine schools -						
Direct payments..	...	$600	...	...	...	-$600
Student incentive payments............................	...	2,315	...	$1,035	...	-1,280
Maintenance and repair of ships......................	...	8,000	...	...	...	-8,000

Due to the continuing oversupply of merchant marine officers, funding for this program will be discontinued except for incentive payments to students already enrolled in this program and under contract with the government.

Direct payments of $100,000 to each school will be made for the last time in 1986 and no funds are requested for this purpose in 1987.

No funds have been requested for maintenance and repair of the training ships. The schools may request the use of these ships at no cost to the government as authorized by Section 1308(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1295g).

Activity: National Security Support Capability

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
National defense reserve fleet.........	139 (140)	$8,269 (8,008)	131 (142)	$7,955 (8,155)	131 (142)	$8,048 (8,048)	131 (142)	$11,903 (11,903)	...	$3,855
Emergency planning/ operations............	34 (26)	1,309 (1,330)	30 (28)	1,518 (1,518)	30 (28)	1,518 (1,518	30 (28)	1,518 (1,518)	...	...
Total requirements......	173 (166)	9,578 (9,338)	161 (170)	9,473 (9,673)	161 (170)	9,566 (9,566)	161 (170)	13,421 (13,421)	...	3,855

Goals and Objectives

Goals: To maintain a national defense reserve fleet with the capability to meet national shipping requirements in times of national emergency; ensure continuity and control of maritime operations in times of national emergency; provide for disposal of government-owned ships excess to national defense needs; control the sale or transfer of U.S. citizen owned maritime assets to foreign ownership; insure installation of national defense features on newly constructed ships; and insure seamen and private shipping against loss in time of war.

Objectives: Preserve and maintain Federally-owned ships selected in consultation with the Department of Defense for retention in the National Defense Reserve Fleet (NDRF); maintain, on a reimbursable funding basis, a nucleus of NDRF ships of types selected by the Navy in an advanced state of readiness in the Ready Reserve Force (RRF) capable of being on berth within 5-20 days of notification and which are capable of sustained operations to meet national shipping requirements; administer the foreign transfer and ship disposal programs; develop and administer a program to ensure continuity and control of maritime operations under emergency conditions, including coordination with foreign allies; maintain the capability to rapidly activate and effectively administer the National Shipping Authority when required; and administer a program that will facilitate construction of merchant ships quickly, efficiently and economically in the event of a national mobilization emergency.

Base Program

The National Defense Reserve Fleet was created by the Merchant Ship Sales Act of 1946 (50 USC App. 1735 et. seq.) to provide a viable inventory of ships preserved in such a manner as to facilitate activation on short notice to meet requirements for additional shipping capacity in times of national emergency. MARAD is also assigned planning functions under Executive Orders 10480 and 11490 for ocean shipping, ship acquisition, shipping allocation, and ship operations; and for ports and port facilities including port allocation and support activities except for those functions assigned to the Department of Defense and the Coast Guard. The NDRF is the only pool of merchant ships under the complete control of the Federal government available to provide surge capacity to the U.S. Merchant Marine in time of military or economic crisis. These ships are located at three reserve fleet sites on the East, West, and Gulf Coasts in order to provide maximum access to shipyards when activation is required. Within the NDRF, a subset of ships is being upgraded and maintained to be at port within 5-20 days after notification. This subset of ships is identified as the Ready Reserve Force (RRF). The RRF was established in 1977 jointly by Navy and MARAD and is funded by Navy.

Other activities of this program are: (1) developing, testing and maintaining plans for building, requisitioning and managing U.S.-flag and other U.S.-owned merchant ships in wartime; (2) developing, in coordination with other NATO countries, plans for mobilization and worldwide employment of NATO merchant ships in wartime; (3) developing, in coordination with the Department of Defense, plans for civil shipping support of the military services in wartime and for defense control and protection of shipping; (4) planning for wartime ship repair and shipbuilding to meet civil and defense requirements, including annual surveys of the mobilization capabilities of private U.S. shipyards; (5) developing and maintaining plans for necessary control of port operations and facilities in wartime; (6) determining equipment requirements and planning for production of essential equipment for wartime ship repair and construction; (7) planning for continuity of MARAD operations in the event of attack on the U.S.; (8) planning for and executing plans for response to natural disasters and other non-military contingencies affecting or requiring support of the U.S. maritime industry; and (9) developing and maintaining the U.S. government war risk insurance program for wartime implementation, including the issuance of war risk insurance binders in peacetime.

Program Increases

	1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
National defense reserve fleet..........................	...	$8,048	...	$11,903	...	$3,855

$3,855,000 is requested to initiate a multi-year program to provide adequate facilities at the three National Defense Reserve Fleet sites. This program will include dredging at the James River ($1,700,000) and Beaumont ($2,450,000) sites, additional mooring stakes and electrical service at the Beaumont Reserve Fleet ($1,500,000), and replacement of the three crane barges one of which is located at each fleet site ($7,500,000). The details of this program are described below in order of current priority and would be accomplished as fund availability, including cost sharing by Navy (the primary user), permits.

The access channel and turning basin at the James River Reserve Fleet were last dredged in 1969. Silting of the channel and turning basin has made this channel usable only at higher water levels. The channel has been marginally kept open by using tugs to scour the bottom with the attendant risk of underwater damage to the tugs and incurring damage to internal piping and water cooling systems from intake of sandy water. Increased operational activity at the reserve fleet principally associated with the Navy funded ready reserve force program makes it imperative that the access channel and turning basin are usable at all times and at all water levels. This can only be guaranteed by dredging. This project is the top priority in this program, and detailed planning is in process in 1986.

The entrance channel to the Beaumont Reserve Fleet is too shallow and does not permit routine access to the fleet mooring basin for some ships currently in the RRF program. Additionally, the larger ships which can be moored at this site can only be brought in or taken out after laborious, time consuming and costly ship ballasting and at favorable tidal conditions. The fleet mooring basin is formed by a levee along a natural bend in the Neches River. The ship entrance has silted up due to river flows to the point that large ships can only be taken in or broken out from the fleet at the most favorable high tides. The older, smaller ships in the NDRF are being replaced with newer larger ships and the entrance must be dredged to permit effective breakout of ships. The dredging is becoming increasingly critical as larger vessels are added to the fleet.

Retention ships, principally RRF ships, are being added to the Beaumont Reserve Fleet. These added ships require an expansion of the electrical service systems and installation of additional mooring stakes. The electrical power service at the Beaumont Fleet was installed many years ago. Power requirements have been steadily increasing to operate the dehumidification machines, cathodic protection and other electrically operated equipment. The increase in the number of ships in the Beaumont Reserve Fleet place an ever increasing demand for power from an obsolete system. Mooring stakes are required to hold the ships in position during periods of high winds and hurricanes. Larger ships are greatly effected by adverse weather conditions. It is estimated that these improvements will cost about $1,500,000.

Each of the fleets has only one crane barge. The barges currently in use are WWII surplus units that are reaching the end of their lives. One crane has already collapsed, fortunately without loss of life or serious injury, indicating possible metal fatigue and future structural failure. There are no surplus units, and replacement by new construction or major alteration to existing barges if appropriate cranes are found are the only practical solutions. MARAD will use current Corps of Engineer's standard design with only slight modifications for new construction and as a basis for major alterations and installation on a barge if that is found to be most cost effective. The barges will have 15 ton cranes with an outreach of 80 feet. It is estimated that each crane barge will cost $2,500,000.

Activity: Operating programs

	1985 Actual		1986 Currently Available		1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Development of waterborne transportation systems...............	46 (37)	$2,341 (2,183)	43 (41)	$2,212 (2,212)	43 (41)	$2,212 (2,212)	37 (35)	$1,905 (1,905)	-6	-$307
Use of waterborne transportation systems...............	139 (139)	6,563 (6,843)	128 (124)	6,344 (6,344)	128 (124)	6,344 (6,344)	123 (119)	6,036 (6,036)	-5	-308
General administration..	168 (212)	19,660 (22,106)	158 (200)	18,988 (19,403)	158 (200)	20,023 (20,023)	132 (174)	18,883 (18,883)	-26	-1,140
Total requirements......	353 (388)	28,564 (31,132)	329 (365)	27,544 (27,959)	329 (365)	28,579 (28,579)	292 (328)	26,824 (26,824)	-37	-1,755

Goals and Objectives

Goals: To develop effective and cost-competitive U.S.-flag waterborne transportation systems to help meet national maritime objectives, promote the shipbuilding and ship repair industry, and aid shipowners in obtaining the private investment capital needed to undertake ship construction programs;

Develop and administer programs that will improve the efficiency and use of domestic ports and waterborne transportation systems; and

Provide overall Agency administration and policy direction, and centralized administrative support services consistent with policies, procedures and standards set forth in statutes, executive orders, and directives of agencies to which relevant authority has been assigned or delegated within the Executive Branch.

Objectives: To provide for effective administration of Federal research and development projects designed to achieve technological advances in ship design engineering and improved ship construction techniques; provide capability for technical analysis of merchant ship systems design, development, production and operation which should not be performed on a contract basis; promote and facilitate the growth and modernization of the U.S.-flag fleet by construction, reconstruction, and reconditioning of ships using tax deferred funds arising from operation, depreciation and sale of vessels, and from the investment of accumulated fund assets;

Increase U.S.-flag participation in U.S. foreign commerce; reduce operating subsidy; increase operating flexibility for subsidized companies; increase productivity in general cargo and bulk terminal operations; improve shipping capability in the domestic waterborne trades; and

Provide overall top level Agency management and direction, and formulate long-range Agency objectives, programs, forecasts and industry statistical analyses; provide administration and direction of records, property, reports, space, forms and directives management, and other similarly mandated programs in accordance with policies, procedures and standards of lead agencies and DOT; provide the following centralized services in accordance with policies, procedures, and standards set forth by statutes, Congress, GAO, OMB, Treasury, OPM, GSA, and DOT, as appropriate: accounting, budgeting and fund control, personnel, and ADP services; and provide systematic periodic management audits of significant organizational units.

Base Program

The Development of waterborne transportation systems activity funds programs that attempt to develop more efficient and cost-effective ship designs and ship components and methods of ship construction, facilitate raising capital to build or modernize ships, and assist in providing highly trained and knowledgeable manpower to construct and operate U.S.-flag ships.

This program funds administrative expenses for personnel whose efforts are directed toward improved ship design engineering and ship construction techniques, including projects funded in the Research and development appropriation.

This activity also includes program direction and administration of the Capital construction fund program. This program permits U.S. shipowners and operators to deposit earnings, depreciation and gains derived from vessel operations in tax deferred funds provided such funds are used to construct new vessels or reconstruct existing vessels. Administration of this program includes providing assistance to prospective applicants, evaluating and processing applications, reviewing ship construction program proposals, approving appropriate deposit levels, and monitoring and enforcing provisions of established construction fund agreements.

The Use of waterborne transportation systems activity funds programs that attempt to improve the competitive position of the U.S.-flag merchant marine. The U.S.-flag merchant marine historically has had considerable difficulty in competing with foreign-flag ships because of its higher operating costs, principally crew wage costs. The operating subsidy program provides financial assistance to offset these cost disadvantages. Through the other programs funded by this activity, the Maritime Administration works for greater U.S.-flag participation in the U.S. foreign commerce, reduction of operating subsidy, increased productivity in general cargo and bulk terminal operations, and improved shipping capability in the domestic waterborne trades.

Funds appropriated for this activity provide for administration of Operating-differential subsidies (ODS) agreements approved by the Maritime Subsidy Board and for administrative costs related to work performed in administering ODS contracts, reviewing operating practices of subsidized carriers, auditing costs eligible for subsidy, calculating subsidy rates, and processing subsidy payments. Additionally, American-flag operators are supplied directly with current market data and analyses of situations which offer opportunities for U.S.-flag ships to increase their participation in the carriage of potentially profitable cargoes.

Also funded are programs for the exercise of general surveillance over cargo preference activities. The Maritime Administration collects and processes current detailed data on government-impelled cargo shipments to monitor government shipper agency compliance with U.S. statutes. The uniform system for collection analysis and distribution of information also provides data for preparation of annual reports required by Congress. Administrative expenses for activities directed towards improved engineering, management, and environmental aspects of ship operations are included. This includes activities to reduce pollution caused by merchant shipping and to assure fair and equitable insurance rates for the maritime industry. Ports and domestic shipping programs are also included in this activity.

The General administration activity provides for salaries and related costs of executive staff engaged in policy and program formulation and general management of Maritime Administration programs. Personnel who administer and provide administrative support for the basic substantive programs of the Agency are also covered in this activity as well as support costs which are not readily assignable to specific programs. These include certain personnel costs and costs of such items as utilities, equipment procurement and repair, communications, supplies and contracted support services.

Program Decreases

	1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Development of waterborne transportation system........	43	$2,212	37	$1,905	-6	-$307

It is estimated that administration of the research and development program will be reduced 6 positions/FTEs and an associated $307,000 for salaries and benefits and associated personnel costs. This is consistant with the reduced Advanced Ship Development and Marine Technology activities funded by the Research and development appropriation.

	1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Use of waterborne transportation systems...............	128	$6,344	123	$6,036	-5	-$308

Administration of the research and develoment program will be reduced 5 positions/FTEs and an associated $308,000 for salaries and benefits and associated personnel costs. This is consistant with the reduced Advanced Ship Operations activity funded by the Research and development appropriation.

	1987 Base		1987 Estimate		Inc.(+) or Dec.(-)	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
General administration................................	158	$20,023	132	$18,883	-26	-$1,140

This program will be reduced by 26 positions/FTEs and an associated $1,140,000 for salaries and benefits which is consistent with the Agency's current workload.

Summary of Requirements by Object Class
(Dollar amounts in thousands)

Appropriation: Operations and training

Object class		1987 Base			1987 Estimate			Inc.(+) or Dec.(-)		
		Pos.	Workyears	Amount	Pos.	Workyears	Amount	Pos.	Workyears	Amount
11	Personnel compensation:									
11.1	Permanent positions.......	728	690	$24,768	691	653	$23,204	-37	-37	-1,564
11.3	Positions other than permanent...............	142	102	2,329	142	102	2,329	...	...	...
11.5	Other personnel compensation...........			608			608			...
11.8	Special personal services payments................			559			559			...
	Total.................	870	792	28,264	833	755	26,700	-37	-37	-1,564
Other objects:										
12	Personnel benefits........			3,816			3,640			-176
13	Benefits for former personnel...............			220			220			...
21	Travel and transportation of persons.............			871			856			-15
22	Transportation of things..			59			59			...
23	Rent, communications, and utilities:									
23.1	Standard level user charges................			3,170			3,170			...
23.2	Other rent, communications, and utilities...............			4,600			4,600			...
24	Printing and reproduction............			349			349			...
25	Other services............			20,870			12,870			-8,000

Object class		1987 Base			1987 Estimate			Inc.(+) or Dec.(-)		
		Pos.	Workyears	Amount	Pos.	Workyears	Amount	Pos.	Workyears	Amount
26	Supplies and materials....			3,423			3,423			...
31	Equipment.................			1,556			1,556			...
32	Lands and structures......			50			4,205			4,155
41	Grants, subsidies, and contributions...........			2,915			1,035			-1,880
42	Claims....................			2			2			...
	Total, requirements...			70,173			62,693			-7,480

Appropriation: Operations and training

Consulting Services

	Obligations (in thousands)			Workdays (Personal Appointments Only)		
	1985	1986	1987	1985	1986	1987
Contractual consulting services..........	...	...	...	...	...	...
Personnel appointments for consultants...	...	...	...	...	...	...
Advisory committee expenses.............	4	4	4	...	...	...
Total - all types......................	4	4	4	...	...	...

The Maritime Administration has one advisory board. The Advisory Board to the Merchant Marine Academy was established in compliance with Section 1303(i)(1) Merchant Marine Act, 1936, as amended (46 U.S.C. 1295b), for the purpose of examining the course of instruction and management of the Merchant Marine Academy and advising the Maritime Administrator and the Superintendent of the Academy of its findings and recommendations. The Board must meet at least once each year. Federal costs are for reimbursement of travel expenses to the members when requested.

Appropriation Summary Statement

Public Enterprise Fund: Federal Ship Financing Fund

The Federal Ship Financing Fund is used to underwrite the guarantees made under the Title XI Loan Guarantee program and to pay the cost of administering that program.

The Federal Ship Financing Fund incurs obligations for: all administrative expenses associated with the Title XI program; advances of payments made to avert owner/operator defaults on guaranteed loans; pay off of the principal and interest due for guaranteed loans which enter final default situations; and interest for borrowings from Treasury. These expenses are financed by insurance premiums and other receipts from the public and borrowings from Treasury.

1986 DEFICIT CONTROL ACT REDUCTIONS (P.L. 99-177)

(Dollars in thousands)

	Appropriation	Reductions	Subtotal
Federal Ship Financing Fund			
Administrative Expenses........	$3,100	-$133	$2,967
Commitments....................	70,000	-3,010	66,990
Total..........................	73,100	3,143	69,957

FY 1986 obligations for operating expenses are estimated to be $8,000,000. This includes $3,100,000 for administrative expenses in managing the fund as well as expenses for husbanding of ships. The Emergency Deficit Control Act of 1985 (P.L. 99-177) will reduce the administrative expenses by $133,000 (4.3 percent). Application of P.L. 99-177 also places a defacto limitation of $66,990,000 on 1986 new loan guarantee commitments, $3,010,000 less than the current $70,000,000 estimate of new commitments that otherwise would have been made. Otherwise, the Federal Ship Financing Fund is exempt from P.L. 99-177 sequestration because its other expenses finance costs resulting from "prior legal obligations." It is anticipated that the reduction in administrative expenses can be absorbed without furlough or reductions-in-force. A reduced level of commitments will have no significant impact.

Justification of Proposed Language Change

Public enterprise fund: Federal ship financing fund

The Federal Ship Financing Fund is a revolving fund established under Title XI of the Merchant Marine Act, 1936, as amended. This program was established to assist in the development of the U.S. Merchant Marine by guaranteeing construction loans and mortgages on U.S.-flag vessels. It enables eligible vessel owners to obtain long-term financing at favorable interest rates. The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) established a limitation on outstanding commitments and guaranteed loans outstanding amounting to $9,500,000,000 for the Maritime Administration.

Insertion: "During 1987, no commitments for guaranteed loans will be made."

The actual 1985 levels and estimates for 1986 are shown below (in millions of dollars):

	1985 Actual	1986 Estimate	1987 Estimate
New commitments..	$38	$70	...
Outstanding commitments and guarantees, end-of-year....................	6,444	5,634	$5,164

Appropriation language and code citations:

1. 46. U.S.C. 1273(f) provides that: "The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any one time shall not exceed $12,000,000,000, of which $1,650,000,000 shall be limited to obligations pertaining to commercial demonstration ocean thermal energy conversion facilities or plantships guaranteed under section 1279C of this title, and of which $850,000,000 shall be limited to obligations pertaining to guarantees of obligations for fishing vessels and fishery facilities made under this title."

Appropriation language and code citations:

General Provisions

1. Sec. 314. "Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts."

No Specific Authority

40 U.S.C. 303b "On and after June 30, 1932, except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, . . . The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts."

2. Sec. 315. "No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this

Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts."

No Specific Authority

This language was inserted by Congress in the Supplemental Independent Offices Appropriation Act, 1949, and has been continued in substantially the same form in all subsequent appropriation bills. The House hearings (page 490) on the Supplemental Independent Offices Appropriation Bill for 1949 state that the purpose of this language is solely to restrict the funds of the Maritime Administration to an annual budget basis and thereby to secure adequate accounting and budgeting control. In view of this restrictive language, the construction fund established by the Merchant Marine Act, 1936, remains inactive.

Mr. **Dwyer**. Mr. Gaughan, do you have a statement? Proceed at your own pace.

STATEMENT

Mr. **Gaughan**. Thank you, Mr. Chairman. I am John Gaughan, the Maritime Administrator, and this is indeed an honor for me to appear before this committee in support of the administration's fiscal year 1987 appropriation.

Mr. Chairman, if you would permit me, I would like to introduce my senior staff which I have brought along. To my right and sitting next to me is Mr. Earnest Hawkins, the Associate Administrator for Administration. Also accompanying me are Mr. Mason Nottingham, Director of the Office of Budget; Mr. Richard E. Bowman, Associate Administrator for Maritime Aids; Mr. Robert Patton, Acting Chief Counsel; Mr. Arthur Friedberg, Director, Office of Maritime Labor and Training; and Mr. Gary Misch, Associate Administrator for Marketing and Domestic Enterprise.

Mr. Chairman and members of the committee, I am pleased to discuss our fiscal year 1987 budget with the backdrop of the need for a competitive merchant marine required by the national interests of this country. This need is tempered, however, by the clear requirement to decrease Federal deficits by reducing the budget. Despite the difficult budget choices which I will discuss in some detail, the administration continues to strive for a healthy merchant marine and therefore will pursue authority to allow operators receiving operating-differential subsidy [ODS] to build or acquire ships foreign and to allow reflagged foreign-built ships immediate eligibility to participate in the cargo-preference program.

These measures will aid in providing our merchant fleet with new cost competitive ships and in reducing the costs of the ODS program. In addition, we will also aggressively pursue our bankruptcy legislation in order to mitigate the sizeable defaults which have resulted in the requirement to borrow from Treasury.

The proposed budget for Maritime Administration activities would contribute to reducing Federal deficits by phasing out the research and development program, discontinuing direct financial support to the six state maritime academies—except for student incentive payments to existing students—and prohibiting the Secretary from issuing obligations to finance expanded cargo preference requirements in 1986 and 1987 pursuant to Public Law 99-198. The budget also proposes no new Federal Ship Mortgage (Title XI) loan guarantee commitments in 1987 and beyond. Furthermore, we will continue to seek the elimination of "double subsidy" which allows vessels carrying preference cargoes to receive ODS.

1986 IMPACT OF THE DEFICIT CONTROL ACT OF 1985

Before addressing the details of our 1987 request, I would like to outline the 1986 impact of the Balanced Budget and Emergency Deficit Control Act of 1985 (commonly referred to as Gramm-Rudman-Hollings). The budget assumes that 1986 funds will be sequestered on March 1, 1986.

The President's budget reflects four sequestrations of amounts which would have otherwise been available to the Maritime Administration as follows:

Research and Development—$426,000 of the $9,900,000 appropriated for 1986 has been reduced uniformly across all programs, projects and activities.

Operations and Training—$2,997,000 of the $67,900,000 appropriated has likewise been uniformly applied.

Federal Ship Financing Fund [FSFF]—Under the terms of the Gramm-Rudman-Hollings legislation $3,010,000 of the estimated $70,000,000 was sequestered. Further, administrative expenses amounting to $133,000 have been sequestered thus limiting personnel and related dollar resources available for operation of the program.

We are implementing rather stringent fiscal planning controls which we believe will avoid the need to reprogram between programs, projects, and activities [PPA's] for the Operations and Training and Research and Development appropriations because of these reductions. There will be no reductions-in-force or furloughs of personnel. The sequestered amount for loan guarantees was based on an estimate of 1986 demand.

1987 BUDGET REQUEST

The 1987 request is for total appropriations of $378,843,000. This consists of $320,000,000 for operating-differential subsidies, $5,500,000 for Research and Development, and $53,343,000 for Operations and Training. No funding is requested for the new Ocean Freight Differential account. I would like to discuss the last item before going on to the other accounts.

OCEAN FREIGHT-DIFFERENTIAL

The 1985 Farm Bill (Public Law 99-198) amended the Merchant Marine Act, 1936 to increase from 50 percent to 75 percent over a three-year period the amount of concessional agricultural commodities that must be carried on U.S.-flag ships. These commodities include those shipped under the Public Law 480 program under agreements with friendly countries (Titles I and III) and for humanitarian assistance (Title II) as well as commodities shipped under the overseas donation programs involving dairy and other products (Section 416).

The administration continues to oppose an expansion or contraction in U.S. cargo preference laws as they existed prior to the recent District Court decision in *Transportation Institute vs. Dole*. The provisions of the 1985 Farm Bill is estimated to increase the department's budget by an estimated $48,000,000 in 1986 and $120,000,000 in 1987 for increased Ocean Freight costs.

I might point out, Mr. Chairman, that the increases in the freight costs include freight costs previously absorbed by USDA and AID. It also includes freight differential costs for an estimated increase in the portion of U.S. flag shipments from 50 to 60 percent in 1986, and to 70 percent in 1987.

The budget therefore proposes supplemental 1986 and 1987 appropriations language which would prohibit the Secretary of Transportation from issuing obligations to finance these increased costs. Separate legislation to repeal these requirements will also be submitted.

OPERATING-DIFFERENTIAL SUBSIDIES

The administration will continue to meet its contractual obligations under the existing operating-differential subsidy programs. The 1987 appropriation request totals $320,000,000 which is an increase of $20,500,000 over 1986. This amount is estimated to be sufficient to provide ongoing support for 73 liner and 17 bulk ships under existing contracts. This request does not contain any adjustment for proposed ODS reforms including elimination of "double subsidy." When the proposed "double subsidy" reform is enacted, the 1987 estimates would be adjusted accordingly.

RESEARCH AND DEVELOPMENT

The Research and Development appropriation request amounts to $5,500,000, a decrease of $4,400,000 from the 1986 appropriation. The administration proposes to rely more heavily on private sector funding beginning in 1987. This will entail "privatizing" of the Computer-Aided-Operations Research Facility [CAORF] and phasing out Federal funding for maritime R&D and transferring the responsibility to the private sector.

OPERATIONS AND TRAINING

The Operations and Training appropriation request amounts to $53,343,000 which coupled with $9,350,000 to be deferred and brought forward from 1986 will provide a total program of $62,693,000 which is $7,007,000 below the 1986 appropriation. The deferral consists of $8,500,000 of funds appropriated in 1984 for replacement of the New York State Maritime Academy training ship and $850,000 appropriated but not used in 1984 for state marine school training ship fuel. The net reduction also reflects discontinuance of direct Federal financial support to the state maritime schools ($10,880,000 of which $8,000,000 is for maintenance and repair of schoolships), and a general reduction in personnel and related costs (37 FTE and $1,755,000).

Due to the continuing oversupply of merchant marine officers, continued Federal support for the state maritime schools cannot be justified. These decreases are offset by initiation of a defense related multi-year facilities maintenance program at the National Defense Reserve Fleet sites ($3,855,000), and for automatic cost increases for ongoing programs ($1,473,000).

In addition, $300,000 is requested for design work to refurbish or replace the 40-year-old heating plant at the Merchant Marine Academy.

FEDERAL SHIP FINANCING FUND

Due to the continued economically depressed condition of the industry and the recent experience in very high levels of defaults, no Title XI loan guarantees are proposed in 1987 and beyond.

Mr. Chairman, this concludes my statement. I will be pleased to answer any questions you or other members may have.

DEFICIT CONTROL ACT

Mr. **Dwyer**. Thank you, Mr. Gaughan.

The fiscal year 1986 sequestration as a result of the Gramm-Rudman Budget Reduction Act reflects a reduction of $426,000 in Research and Development and $2,997,000 in the Operations and Training account. Will you tell us how you are going to manage to do this and still carry out your statutory requirements?

Mr. **Gaughan**. Mr. Chairman, we have found that for the remainder of 1986 that we can apply that reduction of approximately 4.3 percent across each of our program areas uniformly without a need for reprogramming, and to in fact continue to meet our statutory responsibilities.

Mr. **Dwyer**. Will you provide us in exact detail how this reduction will be applied, for the record?

Mr. **Gaughan**. I most certainly will.

[The information follows:]

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 (P.L. 99-177) FY 1986 SEQUESTRATION

Research and development

	4.3 percent sequestration
Advanced ship development	−$127,000
Advanced ship operations	−109,000
Research facilities	−123,000
Advanced maritime technology	−67,000
Total Research and development	−426,000

Sequestration of $127,000 in the Advanced ship development program will be spread evenly over 10 shipbuilding research projects in areas such as welding technology and industrial engineering.

The Advanced ship operations sequestration of $109,000 will result in a reduced level of applied research activities in the area of competitive shipping.

The sequestration of $123,000 in Research facilities will be attained by reducing the level of effort devoted to refinement of the Maritime Administration simulation models for the Computer Aided Research Facility (CAORF).

Sequestration of $67,000 in Advanced maritime technology will result in reduced level of effort in the area of navigations and communications.

Operations and training

	4.3 Percent Sequestration
Merchant Marine Academy:	
Midshipmen costs	$−168,000
Instructional program	−258,000
Maintenance, repair and operating requirements	−270,000
Program direction and administration	−148,000
Subtotal Merchant Marine Academy	−844,000
State marine schools:	
Direct payments	−26,000
Student incentive payments	−100,000
Maintenance and repair of ships	−344,000
Fuel	−43,000
Subtotal State marine schools	−513,000
Additional training	−49,000

	4.3 Percent Sequestration
National security support capability:	
National defense reserve fleet	-342,000
Emergency planning/operations	-65,000
Subtotal national security support capability	-407,000
Operating programs:	
Development of waterborne transportation systems	-95,000
Use of waterborne transportation systems	-273,000
General administration	-816,000
Subtotal operating programs	-1,184,000
Total 1986 sequestration	-2,997,000

The 1986 sequestion of $844,000 in the Merchant Marine Academy program will be achieved by a reduced level of repair and replacement of barracks furnishings and instructional equipment, and a reduced level of repairs to the barracks and physical facilities and equipment.

The State marine school sequestration of $513,000 will be achieved by a reduced level of maintenance and repair of training ships and reduced payments for fuel. The reduction is student incentive payments will not affect individuals already or in the entering class due to lack of applicants for the program.

The sequestration of $407,000 in the National security support capability program will be achieved by reduced level of maintenance and repair of National Defense Reserve Fleet facilities and craft and from attrition of personnel.

Sequestration of $1,184,000 in operating programs will be achieved by reducing travel, reduced personnel costs as a result of attrition as the Agency scales down to 1987 program levels, and a small reduction in services and supplies.

OCEAN FREIGHT-DIFFERENTIAL

Mr. **Dwyer**. The President's budget for 1987 indicates that you plan to repeal the provisions of Public Law 98-198, which requires the Maritime Administration to finance Ocean Freight differential costs for U.S. flag ships at a level of 50 percent to 75 percent. Explain how this borrowing occurs, and where the funds are expected to be derived from.

Mr. **Gaughan**. Mr. Chairman, the Secretary is required by the new law to borrow from Treasury funds required to pay Ocean Freight differentials for the added cargo preference cargoes, and for ocean freight costs which are in excess of 20 percent of the total commodity costs and ocean freight costs of the program. These funds would have to be reimbursed to the Department of Agriculture, and that program begins on April 1st.

Mr. **Dwyer**. Do you anticipate that legislation will be submitted to repeal this requirement?

Mr. **Gaughan**. Yes, I do.

Mr. **Dwyer**. Do you have any idea when?

Mr. **Patton**. My name is Bob Patton, Acting Chief Counsel, Mr. Chairman.

We have that actively under way at the present time, and expect that to come up here shortly, 30 days or 60 days depending upon the process in the Administration.

Mr. **Dwyer**. Thank you.

DEFERRAL

Would you explain the basis for deferring $9,350,000 into 1987. What is your authority to continue proposing this deferral which Congress has already rejected?

Mr. GAUGHAN. Mr. Chairman, first of all there are two parts to the $9,350,000 deferral. If I could deal with the first part of the deferral, $850,000, that is money that was appropriated for fuel to be used by the state academies, and this is the first time that we have requested deferral of that amount. The administration has never supported the provision of providing fuel money for the academies, and this represents money previously appropriated which has not been used by the schools.

The second part of the deferral, $8,500,000, represents money that was appropriated for a replacement vessel at the New York State Academy. First of all, that sum, Mr. Chairman—is not sufficient to acquire and convert a ship of sufficient size for use as a training ship Additionally, there has been a major change in the Federal relationship to the state marine school program, since action on the last deferral in 1985, and that is that the administration will discontinue financial support for the program in 1987 which includes alteration, maintenance and repair of school ships. Thus the current deferral in our view is different and for another purpose, and the Congress should consider this deferral before directing the administration to proceed with acquiring of a replacement vessel.

Mr. DWYER. I asked the question, what is your authority to continue proposing deferrals? You told me what you are deferring not what the items are, but would you amplify what your authority is to continue these deferrals.

Mr. GAUGHAN. Because of the changed relationship that we are proposing in elimination of Federal support for the state academies, that is the basis that we are seeking.

Mr. DWYER. Is that going to be in the form of legislation?

Mr. GAUGHAN. It will not be in the form of specific legislation.

Mr. DWYER. Is this just done by administrative fiat?

Mr. GAUGHAN. There is a deferment action in the justification. We have forwarded, Mr. Chairman, a deferment action.

Mr. DWYER. That was rejected by the Congress.

Mr. GAUGHAN. In conjunction with the 1987 submission, Mr. Chairman, we proposed a new deferral action, based on the changed relationship in the Federal program to the state academies.

Mr. DWYER. What I am trying to get straight in my mind, if Congress has rejected a deferral, by what authority do you continue not to expend the money for which the money was appropriated? Because you anticipate asking for another deferral; is that your reasoning?

Mr. GAUGHAN. The deferral of the latest amount was based on the fact that the existing training vessel at the New York State Maritime School is adequate, and that the 1987 budget proposes discontinuing all support for state maritime academies, including support for school ships.

ACQUISITION AND REFURBISHMENTS OF A SHIP

Mr. DWYER. That is what you anticipate asking for in your 1987 budget. You also mentioned the fact about the size of the ship. A ship couldn't be acquired for that amount of money or couldn't be refurbished?

Mr. GAUGHAN. Based on our experience, Mr. Chairman, with the replacement vessel for the Massachusetts Maritime Academy, the costs involved were greater than the $8.5 million available.

Mr. DWYER. So the bottom line is that you are going to continue to defer it based on your anticipating your deferral in the 1987 budget. Is that what you are saying.

Mr. GAUGHAN. That is correct, Mr. Chairman.

Mr. DWYER. What is the status of your authorization for fiscal year 1987?

Mr. GAUGHAN. I have a hearing this Thursday before the House Merchant Marine and Fisheries Committee, Mr. Chairman.

Mr. DWYER. Do you anticipate receiving authorization by the time the appropriation is to be enacted?

Mr. GAUGHAN. I would hope so, sir.

OCEAN FREIGHT-DIFFERENTIAL LEGISLATION

Mr. DWYER. Do you anticipate that your legislative proposal to repeal the portion relating to the ocean differential subsidy will be enacted?

Mr. GAUGHAN. That is certainly the administration's goal, Mr. Chairman.

Mr. DWYER. What committee is going to handle it, Merchant Marine and Fisheries or the Agriculture Committee, on the operating differential subsidy?

Mr. GAUGHAN. Merchant Marine and Fisheries, as far as I know, Mr. Chairman.

Mr. DWYER. Doesn't the Agriculture Committee have some jurisdiction there with the recently enacted farm bill?

Mr. GAUGHAN. Because of the language, Mr. Chairman, that portion of the farm bill actually amended the Merchant Marine Act of 1936. I believe that the jurisdiction lies with the Merchant Marine and Fisheries Committee.

ODS INCREASED COST/REDUCED SHIPS

Mr. DWYER. The budget request for the liner and bulk carrier operators reflects an increase of $20,500,000. However, the number of ships covered by this has been reduced by 14. Would you explain how this increased cost comes about, with the reduced number of ships involved.

Mr. GAUGHAN. Oftentimes those differentials are determined by the level of costs associated to the foreign competition. If the cost of the foreign competition is lower, and you have cost increases in the differential, it is reflective of that ratio.

Mr. DWYER. Is the United States Government legally obligated to provide these funds in fiscal year 1987?

Mr. GAUGHAN. Because of the nature of the program, it is a contract arrangement. We are obligated to provide that, Mr. Chairman. If the monies are not provided, an operator would have a cause of action in the Court of Claims.

DOUBLE SUBSIDY

Mr. **Dwyer**. The budget appendix states that the administration will continue to seek elimination of double subsidy, and that estimates will be adjusted upon enactment of required legislation. What is double subsidy?

Mr. **Gaughan**. Mr. Chairman, presently subsidized operators are allowed to carry both military cargo and what is called premium-rated civilian preference cargo. These are commodities that are a part of a government-impelled program, cargo program, but move at other than conference rates. They move at what we call a premium rate.

Mr. **Dwyer**. Could you give me an example?

Mr. **Gaughan**. Let's say you had a bag of beans going to Africa, that there was not a conference rate, a rate that applied to all carriers, an open rate, and a U.S.-flag carrier, because it was U.S. flag, got the cargo but charged an open rate which was—the conference rate might have been $50, but they charged $70. That is a premium-rated cargo. I can provide some very specific examples if you need it, sir, but at the present time carriage of military cargoes and those premium-rated cargoes are allowed by subsidized operators to also receive a subsidy in their operating-differential subsidy contract as long as the total amount of their carriage is not 50 percent of their revenues.

What we would propose is that at any time that a subsidized operator carried one of those two type cargoes, that they would not be eligible for the other subsidy. Military cargoes by law have to go on U.S. flag, that is viewed as a subsidy. The fact that a subsidized operator is getting a subsidy under the operating differential is viewed as a subsidy, and that is why it is called a double subisdy.

Mr. **Dwyer**. What is your estimate of cost for this double subsidy?

Mr. **Gaughan**. My recollection was last year that it was in the neighborhood of $20 million, Mr. Chairman. I can verify that, but I think that is a ballpark figure.

Mr. **Dwyer**. Is that an item in your budget?

Mr. **Gaughan**. It is not an item in our budget at this time, sir. The legislation was sent forward last year, has not been introduced or enacted, and therefore it is not reflected in our budget. If it were to pass, we would then make adjustments to our budget.

Mr. **Dwyer**. Where is the legislation, in the Merchant Marine and Fisheries Committee?

Mr. **Gaughan**. That is correct.

REDUCED RESEARCH AND DEVELOPMENT

Mr. **Dwyer**. The budget request for the Research and Development account indicates a reduction of $3,974,000 from the adjusted 1986 appropriation level of $9,474,000. Please provide for the record what the reduction in 1986 of $426,000 means to the overall program objectives in the current fiscal year. What programs have been impeded, curtailed or changed as a result of this?

Mr. **Gaughan**. I can provide for the record the specifics on that. In 1986 it involves reductions in the advance ship development program, advance ship operations, and advance maritime technology. If you care, sir, I could elaborate now or provide it for the record.

Mr. **Dwyer**. Why don't you provide that for the record.

Mr. **Gaughan**. Yes, sir.

[The information follows:]

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 (P.L. 99-177) FY 1986 SEQUESTRATION

Research and Development

	4.3 Percent Sequestration
Advanced ship development	−$127,000
Advanced ship operations	−109,000
Research facilities	−123,000
Advanced maritime technology	−67,000
Total, Research and development	−426,000

Sequestration of $127,000 in the Advanced ship development program will be spread evenly over 10 shipbuilding research projects in areas such as welding technology and industrial engineering.

The Advanced ship operations sequestraion of $109,000 will result in a reduced level of applied research activities in the area of competitive shipping.

The sequestration of $123,000 in Research facilities will be attained by reducing the level of effort devoted to refinement of the Maritime Administration simulation models for the Computer Aided Research Facility (CAORF).

Sequestration of $67,000 in Advanced maritime technology will result in reduced level of effort in the area of navigations and communications.

RESEARCH IN THE PRIVATE SECTOR

Mr. **Dwyer**. I was just reviewing your statement. You mentioned the fact that you are going to rely on the private sector more heavily for research and development. Would you give us some idea what might be going on in the private sector in R&D.

Mr. **Gaughan**. I think MARAD's approach to R&D has been fairly successful in including the private sector in the programs, and serving as a catalyst. As an example, there is presently a satellite and VHF, or very high frequency, and ultra high frequency communication systems that were begun under MARAD auspices, these are now operated 100 percent commercially for services to ocean, lake, and river marine transport.

Mr. **Dwyer**. Excuse me, it was developed by your agency?

Mr. **Gaughan**. It was with I would say seed money from MARAD in conjunction with the industry. The project has now reached the point where it is commercially available and we are out of it.

Mr. **Dwyer**. How much did you put into that project?

Mr. **Gaughan**. I don't know off the top of my head, sir. I can provide it, but I don't have the answer to that.

[The following was provided for the record:]

DEVELOPMENT OF SATELLITE COMMUNICATIONS

The Martime Administration has played an instrumental role in the development of marine satellite communications with the support of NASA and ship operators. MarAd began testing communication possibilities in 1969 when NASA's Advanced Technology Satellite Number 3 was used to contact the SS LUCIA while whe was at sea. MarAd spent roughly $12.9 million from FY 1969 to FY 1975 in the development and testing of communications systems. In 1975, a consortium of private sector companies launched satellites over the Atlantic and Pacific Oceans for commercial maritime communications. This system, called MARISAT, was an outgrowth of MarAd's initial experiments with NASA and ship operators.

We have not viewed such programs as having an objective of reclaiming the "seed money" for the government. The mission of the MarAd R&D program has been to promote the U.S. maritime industries through technology advancement. The commercial availability of the satellite communications has resulted in a more efficient and safe U.S. Merchant Fleet.

Mr. **DWYER.** Was any attempt made to reclaim the seed money from the private sector?

Mr. **GAUGHAN.** Not that I am aware of.

Mr. **DWYER.** Should there be an attempt made to reclaim the seed money from the private sector?

Mr. **GAUGHAN.** I think that is a question that I have not honestly thought of, Mr. Chairman. I will look into it. It was viewed, I think, as costs that have had payoffs beyond what the costs were going in.

Mr. **DWYER.** To who, to your agency or to the private sector?

Mr. **GAUGHAN.** No, to the public at large.

PRIVATIZATION OF CAORF

Mr. **DWYER.** What does privatization of the Computer-Aided Operations Research Facility entail?

Mr. **GAUGHAN.** Mr. Chairman, that entails the turning over of the program direction and operation of that research simulator to a private organization, with government retaining ownership of the facility. The facility is located at the Merchant Marine Academy, and is used on a cost-sharing basis with other government agencies and the private sector.

Mr. **DWYER.** How much have you invested in this operation?

Mr. **GAUGHAN.** Total? I don't know the answer to how much we have totally invested, Mr. Chairman.

Mr. **DWYER.** Will you provide that for the record?

Mr. **GAUGHAN.** I most certainly will.

[The information follows:]

DEVELOPMENT COSTS OF CAORF

The Maritime Administration has invested approximately $13.1 million into the design, construction, modification and improvement of the Computer Aided Operations Research Facility, (CAORF). The initial design and construction of the ship research simulator cost $8.5 million; work was completed and the facility became operational in 1976. An additional $4.6 million, spent from 1975 to 1985, consisted largely of numerous system modifications and enhancements.

Mr. **DWYER.** You are going to turn it over to whom?

Mr. **GAUGHAN.** Right now we have published in the Commerce Business Daily a sources-sought notice, soliciting expressions of interest from prospective organizations. There are a number of companies in the private sector that do have simulators and so forth that they market their services. At this time I don't have a list. I don't think I have a complete listing of how many companies potentially might be interested, and on what terms, and so forth.

Mr. **DWYER.** In your published notice that you placed in the Journal of Commerce, do you anticipate trying to recoup some of your capital that you put into this system?

Mr. **GAUGHAN.** I would have to say that based on what I know of the facility, the costs that have gone into it I am not sure that we are going to see expressions of interest from the private sector that would in fact envision paying us large amounts of money for the privilege of taking it over.

Mr. Chairman, in that regard, the government will retain ownership of the facility, and so we are looking for a private entrepreneur to operate it and hawk its wares, if you will.

RESEARCH IN THE PRIVATE SECTOR

Mr. **Dwyer**. The budget justifications indicate that 1986 and 1987 are the transitional periods in which the program will focus on phasing out public support of all research and development through your activities. Where do you anticipate these activities will be continued in the private sector for fiscal year 1988? Have you planned that far in advance? What do you anticipate the private sector doing in 1988?

Mr. **Gaughan**. Let me give you an example, if I could, Mr. Chairman, and I may not have the exact title of this group correct, but there is a Ship Production Committee that is made up of various shipyards throughout the United States. They have indicated to me that while they are not sure how much they will be able to do, that they do anticipate continuation of their efforts to work together to increase productivity, and continue the productivity against that, as an example, the shipbuilding industry has found.

Mr. **Dwyer**. How many employees do you have directly involved in research and development for fiscal 1986 and 1987?

Mr. **Gaughan**. Directly involved, it is probably two dozen, about two dozen. Mr. Chairman, they serve in some cases as program managers, where they are either working with other elements of the agency that might not be doing it full time, and also with outside contractors. I can provide for the record the specific breakdown, but it is in the neighborhood of two dozen, sir.

[The information follows:]

Research and Development Positions

There are currently 22 positions in support of the Research and Development program.

RESEARCH BEYOND 1986

Mr. **Dwyer**. Let me rephrase this question. If 1988 is seen as the year in which no funding were provided for research and development, why provide activity in 1987?

Mr. **Gaughan**. Mr. Chairman, I think there is a range of reasons, not the least of which is some of these programs are in the middle of phases that you would want to wrap those projects up so that you did in fact get a return and a conclusion on your efforts without having it just hung out to dry, so to speak.

Mr. **Dwyer**. When you say get a return, for the research and development to be successful or to get a return on the money invested in the program?

Mr. **Gaughan**. I think both. You would certainly want to, if you had certain objectives that you were trying to reach, to try to conclude and complete those objectives. Also I think it is to serve as a time to allow for restructuring within the maritime community of research efforts and decisions that would have to be made by the

CEOs of various companies as to whether or not they should in fact invest their capital in research efforts.

Mr. **Dwyer**. Mr. Smith.

PRIVATIZATION OF CAORF

Mr. **Smith**. On this privatization of the computer service, what assurance is there that all users would have equal access to the product?

Mr. **Gaughan**. At the present time I have not heard or run across any problems where, whether it be a government agency or whomever, anyone has been discriminated against. Right now if my recollection is correct, Mr. Smith, about 38 percent of the cost of operation of that facility is recaptured through reimbursement from other government agencies, so there certainly appears to me to be enough room there for additional programs and all.

Mr. **Smith**. You had a test on this, didn't you?

Mr. **Gaughan**. You will have to forgive me, Mr. Chairman. I have only been there since the first of December, and I am not aware of the test you refer to.

NEW YORK SHIP

Mr. **Smith**. With regard to the New York ship, what is the story? You were supposed to locate a sister ship to the one that you located for Massachusetts. What happened to that?

Mr. **Gaughan**. We issued a call worldwide for vessels that would meet various criteria that would be needed to satisfy New York State Academy's needs. We had responses from about 18 different vessels. The competition in contracting statute, my reading of it, sir, was that it did require competition. There was disagreement, quite frankly, between the New York State Academy and myself as to whether or not any of those 18 preliminary candidates would actually meet their needs. I have pending, sitting on my desk, a formal request for proposals that would go out to the world, should the Congress direct that that 8.5 in fact not be deferred.

Mr. **Smith**. You had a difference of opinion. Did they say that similar ships did meet the requirements?

Mr. **Gaughan**. They indicated that one of the ships met the requirements, in their opinion.

Mr. **Smith**. Is it a sister ship to the Massachusetts?

Mr. **Gaughan**. That is correct.

Mr. **Smith**. How much did it cost to refurbish the ship?

Mr. **Gaughan**. In the neighborhood of $23 million.

Mr. **Smith**. This ship that they say met the requirements, is that a surplus ship?

Mr. **Gaughan**. At the present time it is not a surplus ship, I don't believe.

Mr. **Bowman**. My name is Dick Bowman, Associate Administrator for Maritime Aids.

That particular ship which is a sister ship, is presently not being used. It is laid up.

Mr. **Smith**. Not being used by who?

Mr. **Bowman**. By the operator and the owner.

Mr. **Gaughan**. Right, I do not own it at this point.

Mr. **Bowman**. It is privately owned.

DEFERRALS

Mr. **Smith**. Tell me about the timetable on deferrals. What do you see as being the timetable on these deferrals, and why did you issue a deferral instead of a rescission?

Mr. **Gaughan**. Mr. Smith, if there may be someone with me who can answer that precisely. My basic understanding was that it was a deferral a second time, because it was for a different reason than the first time around. The nuances beyond that, sir, if I could, I would turn to Mr. Nottingham, my Budget Director.

Mr. **Nottingham**. I am Mason Nottingham, Budget Director.

Basically, sir, I believe the reason for the deferral was simply to offset 1987 appropriations. It was an OMB decision. I am not sure of the full thinking behind it.

Mr. **Smith**. To offset 1987 costs?

Mr. **Nottingham**. Appropriation requirements, yes, sir. Our appropriation request from you would have been $8,500,000 higher if we had rescinded the funds in the current year.

Mr. **Smith**. You mean if you deferred them. If you rescinded them, your base would be $8.5 million lower.

Mr. **Nottingham**. Depending on the concept base. In any event, if we had rescinded it, we would have requested a higher amount in 1987. The effect would have been the same.

Mr. **Smith**. How long do you see it taking to handle a deferral, in the event that Congress wants to turn it down?

Mr. **Nottingham**. If Congress were to turn down the deferral, we would of course immediately act on the instructions of Congress.

Mr. **Smith**. The deferral requires signature?

Mr. **Nottingham**. The President either has or will submit the deferral request to Congress. I believe that document has been forwarded.

Mr. **Smith**. In any event, overturning the deferral, if it were to pass and be signed, would require, a substantial amount of time. We are into February now. If nothing is done until June we will say, we will be over halfway through the fiscal year. That wouldn't make a lot of difference. In the case of your other deferrals, you have affected your own annual budget, haven't you?

Mr. **Nottingham**. Well, sir, it is my understanding generally of the deferral process that the deferral takes place until and unless Congress turns it down, and so I think the timing comes from that, I believe the timing would depend on congressional action.

EMPIRE STATE

Mr. **Gaughan**. Mr. Smith, if I might add here, the *Empire State*, the existing vessel, it is our view that first of all it is adequate to meet the New York State Academy's needs, and in that respect. I recently issued a request for proposals for an estimated $1.2 million in work having to do with its maintenance and repair and habitability to insure that it met all Coast Guard and ABS safety requirements prior to its 1987 cruise.

Mr **Dwyer**. Would that bring it up to requirements?

Mr. **Gaughan**. Yes, it will, and we have been annually funding the drydocking and those types of things. It is an older vessel. There is no doubt about that, but we have certainly set aside funds to meet those costs, so that not only that state academy but all state academy vessels would meet Coast Guard-ABS standards for the 1987 cruise season.

Mr. **Smith**. That is all.

Mr. **Dwyer**. Mr. Carr.

Mr. **Carr**. I have no questions.

COMMITMENTS

Mr. **Dwyer**. In fiscal year 1986–1987 you proposed that no commitments for guaranteed loans would be made. The appropriation enacted did not include such a provision. What loan guarantees were provided in the absence of such a prohibition for 1984, 1985 and 1986, and what are your projections for 1987?

Mr. **Gaughan**. Mr. Chairman, I will have to provide the precise numbers for 1984 and before. In fiscal year 1985 the loan guarantee commitments in the amount of $20,250,000 were committed, and so far in 1986 those commitments total $11,910,000. I apologize, I don't have that at my fingertips for prior years.

[The information follows:]

Loan Commitments in Absence of Prohibition

The Maritime Administration's loan guarantee commitments for FY 1984 and FY 1985 were $177,254,000 and $20,250,000, respectively. For FY 1986, we have estimated $66,990,000 in loan guarantee commitments and, $70,000,000 in FY 1987.

QUESTIONS FOR THE RECORD

Mr. **Dwyer**. All right, Mr. Gaughan, we will submit some questions to you, and will you please provide the answers for the record?

Mr. **Gaughan**. I most certainly will, Mr. Chairman.

[The information follows:]

Questions submitted by Mr. Smith

Deferral of 1986 Funds

Question: What is the basis for deferring $9,350,000 into 1987. What is your authority to continue proposing deferrals which Congress has already rejected?

Answer: The Congress rejected the 1986 deferral on the basis that there would be a continuing requirement for a replacement ship in support of a continuing training program. This premise has changed significantly due to the Administration's discontinuance of direct financial support for this program including maintenance and repair of training ships. If the Congress does not restore this program, the New York State school may not request continued use of a ship. If this is the case, purchase of a ship that has no current use or value to the Federal Government would be a waste of funds.

The authority for a second deferral is based on the fact that this deferral is for an entirely different reason; i.e., discontinuance of Federal support for the State Marine Schools.

T/S PATRIOT STATE

Question: In 1985, the Administration proposed a rescission of $888,000. This was turned down by the Congress and the Maritime Administration was directed to use these funds to put additional work in place on the T/S PATRIOT STATE. What is the current status of these funds?

Answer: These funds are currently set aside pending submission of a deferral to the Congress. The additional work on PATRIOT STATE, with the exception of the navigation lab, will not be required if this ship will not be used after 1986. The Government proposes to discontinue direct federal support to the State marine schools including ship training maintenance and repair after 1987 and it is not known if the Massachusetts Maritime Academy will request continued use of the ship at no expense to the Federal government. If the school does not request the use of the ship, it will be withdrawn and laid up and further expenditure in 1986 would be a waste of funds. The one exception is the navigation lab which is required for the 1986 training voyage. This work will be put in place using regular training ship maintenance and repair funds.

Ocean Freight-differential Subsidies Appropriation Language

Question: You have proposed appropriation language that would prohibit any funds being made available to the Secretary of Transportation to issue obligations to the Secretary of Treasury, pursuant to sections 901(b) and 901(d) of the Merchant Marine Act of 1936 as amended. Isn't this program mandatory? When does it begin? What will be your course of action should Congress not enact the proposed Ocean Freight-differential appropriations or repeal legislation?

Answer: The program is mandatory barring enactment of appropriations language which would trigger a nonavailability of funds message to the Congress pursuant to Section 901(e) of the Act, or repeal legislation as proposed by the Administration. The 1985 Farm Bill has defined the program as commencing with a "calendar year" beginning April 1, 1986. The Administration will begin the program on that date unless legislation or appropriations language to the contrary is enacted.

OFDS-Borrowing Authority

Question: The budget justifications are imprecise to the construction of the $48,000,000 borrowing authority estimate for fiscal year 1986 and the $120,000,000 borrowing authority estimate for fiscal year 1987 should the repeal of this act not be enacted. Please detail for the record the components of each of these two years estimates as to how that payments would be made to for what purposes and what the outlay effects would be, including what budget authority mechanisms might be employed to repay the borrowing authority provided.

Answer: The components of the estimate are as follows:

	FY 1986	FY 1987
Ocean Freight Differ. for added export shares (10%, 20%)	$18,500	$53,700
Excess freight costs (freight costs exceed 20% of commodity plus freight costs)...........	29,500	66,300
Budget appendix estimates...	48,000	120,000

It should be noted that these estimates were established after enactment of the Farm Bill late in the 1987 budget preparation and are subject to change. This process is still underway. The second component, cost of the 20 percent excess, is especially variable and complex according to such factors as volume and price of commodities exported. If final calculations indicate amounts continue to be due, this item will simply be a cost funded at the Maritime Administration in lieu of the Departments of Agriculture and State (AID) and is thus not an added cargo preference cost to the Government.

It is contemplated that the amounts which accrue for any year would be borrowed from the Department of Treasury by the

Department of Transportation and paid to the Departments of Agriculture and State (AID). The mechanism to repay borrowing authority would depend on appropriations language enacted.

Deferral of 1986 Funds

Question: The budget request for Operations and Training reflects a decrease of $13,360,000 from the adjusted appropriation for 1986. This reduction in new budget authority is a net figure in which $9,350,000 from prior year balances deferred will be used to substitute in 1987 for new budget authority. If this deferral is overturned, do you plan to submit a budget request that would provide for the balance of your requested activities for fiscal year 1987?

Answer: The Administration request is for a $62,693,000 program financed from new budget authority and a deferral of 1986 funds. If the deferral is denied, then the Administration requests an adjustment for the full amount of $62,693,000 in new budget authority. The deferral results from termination of the State marine school program in 1987 and should be denied only if this program is restored. However, continuation of this program would require restoration of the deferred funds to finance other programs.

State Marine School Program

Question: You are planning to eliminate support for the State Marine Schools on the basis that there is an oversupply of Merchant Marine officers currently. Please provide a detailed justification for this initiative.

Answer: The basic reason for withdrawing Federal financial support of the State marine schools is that the output of the schools is far in excess of the needs of the U.S.-flag Merchant Marine and of the needs of the Government. There is a projected need for about 500 new merchant marine officers annually, and about 1,200 are currently being supplied from all sources. About 300 enter the work force from sources in which the Government is not involved and cannot control, and an additional 200 graduate from the Merchant Marine Academy which is completely under the control of the Government. These two sources would meet the annual requirement for about 500 new officers. However, the State marine schools graduate about 700 new officers annually which is numerically far in excess of the needs of the Government and the industry and this output is not controllable by the Government.

Further, only a very small number of State marine school students are graduating with a Federal service obligation or Naval Reserve commission further lessening the value of the State marine school program.

The number of State marine school students graduating having accepted student incentive payments has declined from 549 in 1981 to 169 currently in the class graduating in 1986. Therefore, the Federal cost per 1986 graduate with a Federal service obligation with be in excess of $51,000. If current attrition rates are maintained, there will continue to be less than 200 graduates in 1989 with service obligations although the Government would be supporting a graduating class of about 700. These additional students will graduate without a Federal service obligation or a Naval Reserve commission, but add to the numerical excess of new merchant marine officers produced beyond the needs of the industry or Government. Therefore, there is a built-in oversupply without a service obligation or direct linkage to a defense mobilization base which the Federal Government cannot control and is difficult for the schools to resolve.

A further reason for withdrawing Federal support of this program is the cost of providing and maintaining five training ships. Three of these ships are far larger than are required by the Government. There is continuing pressure to replace one of the ships with an even larger ship, and to institute a general program of rehabilitation of the existing ships. This expense is not justified in a program that is excess to the needs of the Government.

For these reasons, continued Federal financial support of the State marine school program can no longer be justified.

Merchant Marine Academy

Question: What is the justification for continuing to support a Merchant Marine Academy in light of this over supply of Merchant Marine officers and discontinuing the State Marine School program?

Answer: The Merchant Marine Academy is mandated by Congress and provides a student body which draws from the entire nation like the other service academies.

All graduates of the Merchant Marine Academy incur a Federal service obligation, accept a commission in the Naval Reserve, and are a part of the direct control mobilization base in that the Secretary of Transportation (Maritime Administrator) may order early graduation for merchant ship assignments as was done during the Vietnam era. The Government does not have similar control of all State school graduates. The initial licensing officer training programs founded and administered by the Maritime Administration are for the purpose of providing officers with a Federal obligated service commitment for the U.S.-flag merchant marine. These individuals also hold commissions primarily in the Merchant Marine Reserve component of the Naval Reserve to insure their ongoing readiness as regular merchant marine officers, to operate their merchant ships in national emergencies. Merchant marine officers in this special Naval Reserve component will not be called to active duty in the Navy but will continue to serve in their licensed positions on merchant ships and use their Navy training in coordination with the fleet.

As noted in a previous question, the annual supply of new merchant marine officers from all sources exceeds the need. The State marine schools graduate about 700 new officers annually which is far in excess of the needs of the Government and the industry. Continuation of this program as opposed to the Merchant Marine Academy would continue to result in an oversupply of new officers and would not correct the imbalance. However, continuation of the Merchant Marine Academy and discontinuance of the State Maritime School program provides the numerical balance.

Merchant Marine Officer Supply and Demand

Question: Can the industry support the officers that will be produced from the Merchant Marine Academy?

Answer: The supply from the Merchant Marine Academy, industry financed programs and individual advancement matches the projected demand.

Question: What estimates do you have in terms of the requirement for Merchant Marine officers over the next five to 10 years:

Answer: Demand: The forward projection for the next ten years does not substantially change the demand for merchant marine officers. At the close of 1985, there were 400 active commercially operated ocean-going ships of 1,000 gross tons and over in the U.S.-flag merchant marine. In addition, the Military Sealift Command has 51 operating ships crewed by civilian merchant mariners in civil service status. The officer billets on these 451 ships represent the demand for the merchant marine officers and is not expected to change substantially in the next ten years. Supply: There is an existing active workforce of over 10,000 deck and engine officers sharing approximately 4,000 billets on these ships. MARAD has the age distribution of the existing active workforce and is able to estimate future attrition from this workforce. Approximately 400 new officers are required on the average each year to maintain a workforce of two officers (one ashore, one at-sea) for each shipboard officer billet. At 525 new officers per year, the workforce would have approximately 2.5 officers for each shipboard billet (1.5 officers ashore, and 1.0 at-sea).

National Defense Reserve Fleet

Question: You are requesting an increase of $3,855,000 for national security support capability. What is this increase attributed to?

Answer: An increase of funds is requested for the National Defense Reserve Fleet program. This program was established by the Merchant Ship Sales Act of 1946 (50 USC App. 1735 et. seq.) to provide a viable inventory of merchant ships preserved in such a manner as to facilitate activation on short notice to meet requirements for additional shipping in times of national need. The NDRF is the only pool of merchant ships under the complete control of the Federal government available to meet surge shipping capacity to the U.S. Merchant Marine in time of military or economic crisis. The ships are located at three reserve fleet sites on the James River at Fort Eustis, Virginia, at Beaumont, Texas, and on the Sacramento River at Suisun Bay, California. There is a current need for extraordinary maintenance requirements for dredging of the shore site at the James River Reserve Fleet to permit movement of the workforce and materials between the shore and the ships in the fleet. Dredging is also required at the entrance of the Beaumont Reserve Fleet to permit unrestricted access to this site and additional mooring facilities and electrical service are required to make full use of this location. Finally, there is a need to replace the crane barge at each of the sites. Each site has only one crane barge. These are surplus WWII units which have reached the end of their lives. The Maritime Administration needs to embark on a multi-year maintenance and replacement program to insure the continued effective and efficient use of this program

Question: You are requesting an increase of $3,855,000 related to the National Defense Reserve Fleet (NDRF). What legislative prohibition is there against receiving a transfer from the Department of Defense to support this essentially Defense related activity, rather than taking it out of domestic related activities?

Answer: The National Defense Reserve Fleet program is administered by the Maritime Administration pursuant to the Merchant Ship Sales Act of 1946 and from appropriations made to the Maritime Administration for that purpose. The requested multi-year facilities maintenance program will serve the long-term needs of the entire NDRF program including those of the Maritime Administration as well as the marginal requirements of the Department of Defense. The Administration has determined that total costs are not attributable solely to one agency. Therefore, the program should be cost shared between beneficiaries. The Maritime Administration, as the program manager and appropriation sponsor of the National Defense Reserve Fleet program pursuant to the Merchant Ship Sales Act of 1946, has requested authority to proceed with these major maintenance items and has requested its share of the funds. The Navy would pay marginal costs as authorized by their appropriations.

Personnel Reductions

Question: You are proposing a reduction of six positions in Development of Waterborne Transportation Systems, five positions in Use of Waterborne Transportation Systems, and 26 positions in General Administration and $1,735,000 in associated costs. How will you accomplish this? Will this involve a RIF?

Answer: Implementation of these reductions will be done on a selective basis which involve many units of the Maritime Administration. These reductions will be on a normal attrition basis and will not require a reduction-in-force.

TITLE XI - Impact on Shipyards

QUESTION: The budget shows no Title XI commitments for 1987. Why? What will be the impact on the shipyards? Will the shipping companies be able to get credit elsewhere?

ANSWER: The Administration has been in the process of reducing Federal credit programs. The 1987 budget discusses phasing out of 12 programs. Six over a five-year period after 1987 and six beginning in 1987.

The recent level of maritime loan guarantee activity has been minimal due to a low level of demand for domestic constructed vessels. Thus, the impact of this decision on shipyards will be less severe than in earlier years.

In the main, credit-worthy companies will be able to obtain financing without loan guarantees.

In 1984, the Department promulgated new Title XI regulations containing very stringent criteria for approving new loan guarantees and direct loans. The new regulations have been partly responsible for the low level of new loan guarantee commitments in the last two years.

TITLE XI - Commitments

QUESTION: Why does the Administration propose appropriations language prohibiting new commitments for guaranteed loans when another committee will be asked to consider legislation terminating the program?

ANSWER: For the past several years, limitations on new commitments have been consistently requested. In this budget, we request a limitation of zero commitments to match the legislation.

Questions Submitted by Mr. Early

Training Ship T/S PATRIOT STATE

Question: Would you please give us an update on the status of the PATRIOT STATE? (a) Was the Phase II conversion work completed in July 1985 as originally projected? Where is the ship at present? (b) The Phase II conversion contract was originally awarded to Bender Shipbuilding and Repair Company, Inc. for $5,643,778. Later the current total was $5,752,077. What was the final total?

Answer: The Phase II work has been completed at a final cost of $8,533,778, and the ship has been delivered to and accepted by the Massachusetts Maritime Academy. The ship is currently located at the school and additional work is being put in place to have it ready for its first training voyage currently scheduled to commence on April 17, 1986.

Question: I believe H.R. 2577, the 1985 Supplemental Appropriations Bill, earmarked $888,000 for additional but necessary conversions and renovations of the PATRIOT STATE. Priority items included: the installation of stair towers in the #4 hold area; providing for ventilation, heating and air conditioning in the #4 hold area in order to meet U.S. Coast Guard requirements for using these areas; providing necessary subminimal classroom space; providing for a much needed multi-use navigational laboratory; and providing for a crane on the fore deck.

(a) What is the status of these conversion projects? Has all the money that was provided been spent? Were additional funds needed?

(b) Were there any necessary conversions that you were not able to make due to lack of available funds?

(c) Were these conversions completed in Mobile, Alabama?

(d) Are you satisfied that all necessary conversions and renovations have been made and that the ship is an adequate and safe training vessel? Is the Massachusetts Maritime Academy satisfied?

(e) Was there enough conversion money left to include a training bridge as part of the package?

(f) As you know, one unexpected conversion problem that was not anticipated was the fact that the cargo holds of the ship were insulated with a polystyrene foam insulation, which would generate toxic fumes if there were a fire. Has this problem been adequately taken care of?

Answer: In 1985, the Administration proposed a rescission of $888,000. This was denied by The Supplemental Appropriations Act, 1985 (P.L. 99-88) and the Maritime Administration was directed to use these funds to put additional work described in the Conference Report on this Act in place on the T/S PATRIOT STATE. The report stated that the Maritime Administration was to provide access to and bring number four hold up to Coast Guard requirements so that it may be utilized to provide subminimal classroom space and a multi-use navigational laboratory, and to provide a crane for the foredeck hold.

The Maritime Administration immediately initiated coordination with the Massachusetts Maritime Academy and commenced work to develop the design and contract specifications required to comply with the Congress' direction. However, agreement was not reached with the Academy in sufficient time as to specifics and design work, with the exception of the navigation lab, and work could not be completed for hold #4 to meet the scheduled training voyage. Agreement was reached that the navigation lab would be located in the bridge area rather than in number four hold and work on this project will be completed prior to the training voyage.

The Government will discontinue direct federal financial support to the State marine schools including training maintenance and repair in 1987 and it is not known if the Massachusetts Maritime Academy will request continued use of the ship at no expense to the Federal government. If the school does not request the use of the ship, it will be withdrawn and laid up and further expenditure in 1986 would be a waste of funds. The additional work on PATRIOT STATE, with the exception of the navigation lab, will not be required if this ship will not be used in 1987.

The navigation lab is required for the 1986 training voyage and this work will be put in place using regular training ship maintenance and repair funds while the ship is alongside at the Academy.

The $888,000 is currently set aside and a deferral will be submitted to the Congress proposing that these funds be carried over to 1987 and used for costs associated with discontinuance of the State school program.

The PATRIOT STATE will meet certification requirements of the Coast Guard and will meet classification requirements of the American Bureau of Shipping and is therefore considered to be a safe ship. The ship is also considered to be adequate for training purposes.

The polystyrene foam insulation has been removed and replaced only in those areas that will be used for cadet living spaces.

Question Submitted by Mr. O'Brien

CDS Repayment Prospects

Question: Last year, after considerable delay caused by Congressional intervention, the Department of Transportation finally accepted repayment of construction differential subsidies from a number of U.S. flag ships in exchange for the permanent removal of domestic restrictions on their vessels. What are the prospects this year for further repayments?

Answer: We currently have repayment applications pending on eight vessels, the payback amount would be about $200 million. However, a number of these repayment applications depend upon MarAd decisions and market conditions.

Cargo Preference

Question: The recently enacted Farm Bill included an important, hard-fought comprise on cargo preference. However, it is my understanding that OMB opposes that compromise and is seeking to eliminate it. In your estimation, is there a chance that the cargo preference can be saved?

Answer: The Administration has opposed expansion or contraction of cargo preference and is committed to carrying out cargo preference requirements as interpreted prior to the Transportation Institute vs. Dole court case. The outcome will of course depend on Congressional action.

Title XI - Elimination of Program

QUESTION: Mr. Gaughan, I note in your statement that the Administration is proposing no new Title XI loan guarantees in FY 1987 and beyond. Despite the depressed state of the industry, is it really wise to eliminate this program?

ANSWER: Demand for Title XI loan guarantees has already been low due to the depressed state of the industry; however, it is expected that in the main, credit-worthy companies will be able to obtain financing without loan guarantees.

Question Submitted by Mr. Regula

State Marine Schools

Question: You propose elimination of direct financial support to each of the state marine schools beginning in fiscal year 1987. Have you informed these schools of this proposal, and are they each capable of compensating for these lost revenues from their own funding?

Answer: Each of the schools was formally notified by letter of the discontinuance of direct Federal financial support. The Maritime Administrator met with the school superintendents to discuss the impact of the Government's action and offered to assist in the transition within authority available to the Agency. The superintendents stated that it was too early for final decisions as to the alternatives that would be pursued at the individual schools.

Cargo Preference

Question: I understand that the Administration is opposed to any "expansion or contraction" of U.S. Cargo Preference laws. Please explain, however, why you oppose the cargo preference compromise worked out by the Congress, even though it may actually result in a lower cost to your administration than previously existing law, as interpreted by the courts.

Answer: The compromise has been opposed by the Administration. The Administration's commitment to cargo preference legislation applies to programs that existed prior to Transportation vs. Dole court case. The cost of the compromise is additional to these programs.

Impact of Eliminating R&D program

Question: As we continue to witness a decline in our maritime industry, to what extent will your proposal to eliminate all research and development programs after fiscal year 1987 serve to more rapidly and severely cripple the industry?

Answer: It is our belief that the proposal to eliminate the R&D program will not cause additional hardship for the marine industries since the industry has always taken a leading role in most R&D projects. As you may be aware, the proposal allows a two year transitional period of FY 1986 and 1987 for the industry to make this adjustment. During this transitional period, staff will bring to a conclusion current efforts and provide assistance to the industries in developing restructured programs for the future. These renewed programs would function without R&D appropriated funds. Our goal in this endeavor is not to weaken the marine industry but to strengthen the industry. The expenditure of funds for R&D should ultimately be a business decision based on the potential opportunity in the marketplace. We have learned, as the industry has learned, that research can be a useful tool in becoming more competitive.

Mr. Dwyer. Thank you very much for being here.

Mr. Gaughan. Thank you.

FRIDAY, FEBRUARY 21, 1986.

FEDERAL MARITIME COMMISSION

WITNESSES

EDWARD V. HICKEY, JR., CHAIRMAN, FEDERAL MARITIME COMMISSION
ROBERT D. BOURGOIN, GENERAL COUNSEL
WILLIAM JARREL SMITH, JR., DIRECTOR, OFFICE OF ADMINISTRATION
FREDERICK F. TRUTKOFF, DIRECTOR, OFFICE OF BUDGET AND FINANCIAL MANAGEMENT

OPENING STATEMENT

Mr. SMITH. The next commission we have this morning is the Federal Maritime Commission.

Here to testify on behalf of the budget request is the Honorable Edward V. Hickey, Jr.

Since this is your first appearance we will insert your biography in the record.

[The biography follows:]

EDWARD V. HICKEY, JR.

Mr. Hickey was born in Dedham, Massachusetts on July 15, 1935 and attended local schools. He served in the United States Army and was assigned overseas. Mr. Hickey attended Boston College in Chestnut Hill, Massachusetts and graduated with the Class of 1960 with a Bachelor of Science degree in Business Administration. He served with the Massachusetts Youth Authority as a Juvenile Officer and was commissioned as a Special Agent in the United States Secret Service in 1964 and served in the Boston Field Office and the White House. In 1969 he joined the staff of Governor Ronald Reagan as the Executive Director of the California State Police and in 1974, following the expiration of Governor Reagan's term of office, returned to Federal service with the United States Department of State, serving as a Foreign Service Officer, as the Assistant Director in the Office of Security, as the State Department's Senior Regional Security Officer and as Acting Counselor for Administration at the United States Embassy, London, England. In January 1981 Mr. Hickey returned to the United States to be commissioned Deputy Assistant to the President and in February 1982 was commissioned as an Assistant to the President.

On September 9, 1985 the President nominated him to be Commissioner and Chairman of the Federal Maritime Commission. His nomination was confirmed by the Senate on November 4, 1985.

Mr. Hickey is a member of the International Association of Chiefs of Police, the Boston College Alumni Association, the Society of Former United States Secret Service Agents, the Friendly Sons of Saint Patrick. He was invested as as Knight of Saint Gregory by Pope John Paul II in November 1984. On November 7, 1985 Secretary Weinberger presented him with the highest civilian award the Department of Defense can confer, the Distinguished Public Service Medal.

He is married to the former Barbara Ann Burke of Boston and they are parents of seven sons ranging in age from twenty-five to fifteen: Edward V., III, Michael F., Joseph G., Paul V., John D., David T., and Daniel J.

Mr. SMITH. The fiscal year 1987 budget request for the Federal Maritime Commission is $11,940,000. That is an increase of $580,000 above the adjusted 1986 level after the sequestration of $510,000 has been deleted from the 1986 enacted appropriation.

[The justifications follow:]

FEDERAL MARITIME COMMISSION

FEDERAL MARITIME COMMISSION
1961

BUDGET ESTIMATES

FISCAL YEAR 1987

SUBMITTED TO THE APPROPRIATIONS COMMITTEE

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; $11,940,000: Provided, that not to exceed $1,500 shall be available for official reception and representation expenses. (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986).

Federal Maritime Commission

Summary and Highlight Statement

Budget Estimates, 1987

The Federal Maritime Commission is an independent regulatory agency which administers the new Shipping Act, 1984; the Shipping Act, 1916; Intercoastal Shipping Act, 1933; and related shipping statutes. The Commission's major responsibilities include the regulation of ocean carriers ratemaking; investigations of discriminatory rates and practices among shippers, carriers, terminal operators, and freight forwarders operating in the U.S. ocean commerce; licensing of independent ocean freight forwarders; and passenger vessel certification.

During fiscal year 1985, the Commission concluded 28 formal proceedings, 151 special docket applications, 91 informal dockets and 18 rulemakings.

Other significant areas of achievement during the past year included the following:

--Collection of $602,298 from the following areas: $455,061 for fines and penalties, and $147,237 for publications and photocopies, freight forwarder licensing, vessel certification fees, and special permission and application fees. These revenues are deposited directly with the Treasury.

--Issued final rules to implement the Shipping Act of 1984 (P.L. 98-237).

--Continued collection and analysis of data for the 5-year study required by section 18 of the Shipping Act of 1984. Entered into a contract with Census to obtain market share information for section 18(a)(3), received tapes from Lloyd's of London to develop analyses of vessel service patterns at U.S. ports for section 18(a)(2), completed approximately fifty percent of the rate analysis being conducted to establish a record of what has happened to freight rates for section 18(a)(1), and implemented initial steps for collecting and analyzing data regarding length of time, frequency, and cost of major types of regulatory proceedings, required under section 18(a)(4). These data are now being analyzed so that econometric models can be developed to determine the effects of the Act.

--Initiated the Automated Tariff Filing and Information (ATFI) project under the leadership of Vice Chairman Carey and Commissioner Philbin. The project's goal is the automation of tariff filings which includes the following policy objectives among others: operation in the private sector; financially self-sufficient through the assessment of user charges for access; access to the Commission is to be without cost; and integrity of the ATFI system is to be ensured by the Commission.

An Advisory Committee has been formed to discuss and make recommendations on the public participating and use of the system. The Committee is comprised of agency representatives and up to 20 persons representing many elements of the shipping public effected by an automated tariff filing and information system.

--Drafted legislation to amend the Hobbs Act so that all final orders of the Commission are reviewable in Federal courts of appeals.

--Established the Office of Regulatory Overview in December 1984 to coordinate changes to existing and proposed rules and regulations, and draft recodification of the Commission's portions of Title 46, United States Code for submission to the Congress, as required by law.

--Established a Litigation Board in January 1985 to coordinate enforcement strategies to achieve regulatory objectives, set enforcement policies and approve negotiated settlements.

--Made provision for around-the-clock receipt of electronically filed Tariff material.

--Evaluated capabilities of other Federal agencies to provide personnel processing and accounting services.

--Substantially completed procurement of ADP and word processing equipment.

As part of its program objectives for 1986 and 1987, the Commission is planning to:

a) Continue ATFI project on tariff automation.

b) Continue an active enforcement program designed to identify and prosecute violators of the shipping statutes.

c) Continue administration of the Ocean Shipping Act of 1978 to monitor, analyze and take appropriate regulatory actions against state controlled-carriers engaging in predatory rate or anticompetitive practices.

d) Continue examination of the statutory requirements applicable to ratemaking in domestic offshore trades pursuant to requirements of the Intercoastal Shipping Act, 1933 with the objective of reducing or eliminating regulatory burdens.

e) Continue to provide consumer assistance consistent with policies of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs."

f) Continue an internal audit program to prevent fraud, waste, mis-management, and misuse of Government funds within the Commission.

The budget estimates for fiscal year 1987 in the amount of $11,940,000 provide funding for 214 total workyears of employment. Compared with the budget appropriation of $11,870,000 for 1986, the 1987 estimate represents an increase of $70,000; of which $38,000 is for increased costs of personal services to support Commission programs and $32,000 is for increased costs of administrative expenses. In accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the 1986 appropriation was reduced by $510,000 to $11,360,000. When compared with this amount, the 1987 estimate represents an increase of $580,000 of which $300,000 is for personal services, $10,000 for travel, and $270,000 is for administrative expenses.

FEDERAL MARITIME COMMISSION
SUMMARY OF REQUIREMENTS
(in thousands of dollars)

Appropriation: Salaries and Expenses, Budget Year 1987

	Work Years	Amount
1986 Appropriation (P.L. 98-180)	214	$11,870,000
Reduction pursuant to Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177)	-	-510,000
1986 Appropriation (adjusted)	214	$11,360,000

	1985 Actual		1986 Estimate Appropriation				1987 Estimate		
Activities	Work Years	Amount	Work Years	Amount	Changes PL 99-177	Revised Amount	Work Years	Amount	Net Change
Formal proceedings	66	$4,159	66	$4,169	-178	$3,991	66	$4,172	$181
Policy Planning and International Affairs	12	856	13	689	-30	659	13	743	84
Regulatory Overview	2	106	2	127	-5	122	2	127	5
Agreements and Trade Monitoring	28	1,260	27	1,178	-50	1,128	27	1,163	35
Tariffs	50	2,359	44	2,179	-94	2,085	44	2,206	121
Hearing Counsel	10	670	9	600	-26	574	9	600	26
Investigations	45	2,235	42	2,304	-100	2,204	42	2,304	100
Personnel and Financial Management	11	569	11	624	-27	597	11	625	28
TOTAL	224	$12,214	214	$11,870	$-510	$11,360	214	$11,940	$580
Unobligated balance	-	78					-	-	-
TOTAL	224	$12,292	214	$11,870	$-510	$11,360	214	$11,940	$580

FEDERAL MARITIME COMMISSION

Summary of Personnel Services
(in thousands of dollars)

	1985 Actual		1986 Estimate		Changes	1986 Revised		1987 Estimate		Net
	WY	Amount	WY	Amount	P.L. 99-177	WY	Amount	WY	Amount	Change
Full-time Permanent Employment (Workyears)	221	$8,014	212	$7,953	$-246	212	$7,707	212	$7,975	$268
Temporary and part-time Employment	3	74	2	80	-	2	80	2	75	-5
Other personnel compensation		34		25	-		25		25	-
Special personal services payments		23		92	-		92		93	1
Total personnel compensation	224	$8,145	214	$8,150	$-246	214	$7,904	214	$8,168	$264
Personnel benefits		897		912	-16		896		932	36
Total personal services		$9,042		$9,062	$-262		$8,800		$9,100	$300

FEDERAL MARITIME COMMISSION

Summary of Employment

OFFICES	1985 Workyears	1986 Workyears	1987 Workyears
Formal Proceedings	66	66	66
Office of Commissioners	17	18	18
Office of Secretary	25	24	24
Office of General Counsel	16	16	16
Office of Admin. Law Judges	8	8	8
Office of Policy Planning and International Affairs	12	13	13
Office of Regulatory Overview	2	2	2
Office of the Director of Programs	3	3	3
Bureau of Agreements and Trade Monitoring	27	26	26
Office of Director	4	3	3
Office of Conferences	5	5	5
Office of Carrier Relationships	4	4	4
Office of Shoreside Agreements and Program Support	6	6	6
Office of Trade Monitoring	8	8	8
Bureau of Tariffs	49	43	43
Office of Director	5	5	5
Office of Tariffs Analysis	34	27	27
Office of Financial Analysis	3	4	4
Office of Freight Forwarders	5	5	5
Office of Passenger Vessel Certification	2	2	2
Bureau of Hearing Counsel	10	9	9

	1985 Workyears	1986 Workyears	1987 Workyears
Bureau of Investigations	44	41	41
Office of Director	8	8	8
Atlantic District	11	9	9
Great Lakes District	2	2	2
Gulf District	7	7	7
Miami Office	3	3	3
Pacific District	11	10	10
Puerto Rico District	2	2	2
Office of Personnel	7	7	7
Office of Budget & Financial Management	4	4	4
Total Workyears (FTE)	224	214	214

Note: The Office of Regulatory Overview was established on December 9, 1984.

Other Personal Services Data

The budget estimates for 1987 provide for 212 workyears of permanent employment which is the same number of workyears as for 1986, and an increase of $268,000 above the 1986 level, of which $246,000 is from reductions pursuant to P.L. 99-177.

Temporary and part-time employment in 1987 is estimated at 2 workyears of employment. This provides for an EEO Director, clerical assistance for peak workloads and substitute help for employees on extended leave. The estimate for 1987 includes $75,000 for this purpose a reduction of $5,000 below the 1986 level.

Other personnel compensation includes $5,000 for occasional overtime, $20,000 for performance awards, $23,000 for reemployed annuitants, and $70,000 for reimbursable detail.

Personnel benefits amount to $932,000 for current programs which include $5,000 for cost of living allowances in Puerto Rico and $927,000 for the Government contributions to civil service retirement, social security, group life insurance and health benefits, and workmen's compensation and medical benefits.

FEDERAL MARITIME COMMISSION

TRAVEL AND OTHER ADMINISTRATIVE EXPENSES

(in thousands of dollars)

	1985 Actual	1986 Estimate	Changes PL 99-177	1986 Revised	1987 Estimate
Travel	100	100	-10	90	100
Administrative Expenses	$3,072	$2,708	$-238	$2,470	$2,740
Transportation of things	-	47	-20	27	50
Standard level user charges	1,325	1,312	12	1,324	1,361
Communications, Utilities and other rentals	353	340	-12	328	335
Printing and Reproduction	189	166	-33	133	169
Other Services	715	673	-145	528	667
Supplies and Materials	170	121	-26	95	118
Equipment	320	49	-14	35	40
TOTAL	$3,172	$2,808	$-248	$2,560	$2,840

Explanation of Changes in Travel and Administrative Expenses

Travel - $100,000

Travel requirements for fiscal year 1987 are projected at $100,000, an increase of $10,000 resulting from reductions to the 1986 appropriation pursuant to P.L. 99-177.

The normal activities of the Commission for which travel is required include conducting formal hearings and investigations; discussions and conferences with industry and government officials relative to maritime and other regulatory matters of national and international interest; providing counsel in connection with suits filed by the Commission in the U.S. district courts; reviewing and inspecting terminal practices and conference activities; making periodic visits with field office personnel to coordinate regulatory matters pertaining to their respective areas; and conducting on-site audits of carriers.

Administrative Expenses - $2,740,000

Funding requirements for administrative expenses in fiscal year 1987 reflect an increase of $270,000 above the 1986 level of which $32,000 is for current programs and $238,000 resulting from reductions to the 1986 appropriation pursuant to P.L. 99-177. A breakdown of these requirements by object class follows:

Transportation of Things - $50,000

This estimate covers the cost of shipping personal effects, general transportation charges and relocation expenses. The increase reflects changes to the 1986 base pursuant to P.L. 99-177.

Standard Level User Charges - $1,361,000

This estimate covers the cost of renting office space and reflects an increase of $37,000 from the 1986 level due to GSA increases for square foot rates.

Communications, Utilities and other Rentals - $335,000

This category includes payment for telephone and telegraph communications, postage and fees, rental of copying machines, and the rental of word processing equipment. This estimate reflects a $5,000 reduction in computer equipment rental and $2,000 for postage and fees.

Printing and Reproduction - $169,000

This category includes an increase of $36,000 which is for printing pages in the Federal Register and the Code of Federal Regulations and deferring other printing costs.

Other Services - $667,000

This estimate reflects an increase of $139,000 primarily from reductions to the 1986 appropriation necessitated by P.L. 99-177.

Supplies and Materials - $118,000

An increase of $23,000 is reflected in fiscal year 1987 for the purchase of supplies and materials.

Equipment - $40,000

Furniture and equipment needs are reduced by $5,000 as word processing and ADP equipment requirements are being met.

FEDERAL MARITIME COMMISSION

The Offices of Commissioners, Secretary, General Counsel and Administrative Law Judges comprise the Formal Proceedings Program. Within this program, the Commission conducts hearings, renders formal decisions in the disposition of docketed cases, compiles and maintains all official documents arising from proceedings, and conducts external representation activities before the Congress, courts of law and other agencies. The duties, responsibilities and accomplishments of the offices within the program are provided in the following summary.

Office of Commissioners

The Chairman of the Federal Maritime Commission is designated by the President of the United States and serves as the chief executive and administrative officer of the Commission. The Chairman's Office serves as a central clearinghouse for disseminating information on the activities, functions, and responsibilities of the Commission to the Congress, the maritime industry, news media, general public, as well as other government agencies. The Chairman and the other four Commissioners, are responsible for establishing the policies of the Commission; making decisions and determinations in the disposition of docketed cases; and ensuring the efficient, equitable, and expeditious resolution of all other matters within the jurisdiction of the Commission. In administering the policies of the Commission, the Chairman delineates the Commission's programs and objectives; meets with representatives of foreign governments and industry groups to present the United States' position on regulation of international liner shipping; and maintains constant liaison with the maritime community and Congress to assure efficient discharge of the agency's statutory responsibilities.

The Commission promulgates rules and regulations to interpret, enforce and assure compliance with the Shipping Act of 1984, Shipping Act, 1916; Intercoastal Shipping Act, 1933; and related shipping statutes. During the fiscal year ending September 30, 1985, the Commission issued 288 final decisions. Of these, 28 were formal proceedings, 151 involved special docket applications, 91 were informal dockets involving shippers' small claims against ocean carriers, and 18 related to rulemaking proceedings.

	1985	1986	1987
Total Number of Workyears	17	18	18

Office of the Secretary

The Office of the Secretary is responsible for preparing a regular weekly agenda of matters subject to consideration by the Commission, forwarding other items to the Commission for its consideration via notation procedures, and preparing the minutes of subsequent action taken on these agenda and notation matters; receiving and processing formal complaints involving violations of the shipping statutes and other applicable laws; issuing orders and notices of actions of the Commission; maintaining official files and records of all formal proceedings; receiving and responding to subpoenas directed to Commission personnel and/or records; administering the Freedom of Information, Government in the Sunshine, and Privacy Acts; responding to information requests from the Commission staff, maritime industry, and the public; authenticating instruments and documents of the Commission; issuing copies of initial decisions of the Administrative Law Judges, reports of the Commission, agency publications, and miscellaneous documents submitted in proceedings before the Commission; compiling and publishing bound volumes of Commission decisions; supervising the Commission's communications center; ensuring compliance with the National Environmental Policy Act of 1969 (NEPA), and the Energy Policy and Conservation Act of 1975 (EPACA); supervising management analysis activity; and supervising administrative services of the Commission which include all contracting, procurement, supplies and space management. The Secretary's Office also participates in the development of rules designed to reduce the length and complexity of formal proceedings; the ongoing evaluation of the efficiency of the Commission's organizational structure; and implementation of legislative changes to the shipping statutes.

During fiscal year 1985, this Office coordinated the handling of all administrative matters by the Commission as a whole while the agency was without a Chairman; finalized Volume 23 of the Commission's decisions for publication; reviewed regulations implementing the Freedom of Information, Privacy, and Government in the Sunshine Acts; continued to review rules of procedure in light of changes caused by legislative action; and implemented the initial steps of an overall automation plan for the Office.

During fiscal year 1986, the Office anticipates publishing Volume 23 of the Commission's decisions and compiling Volume 24; continuing to revise rules of procedure relative to changes caused by legislative action; revising rules governing the Freedom of Information, Privacy and Government in the Sunshine Acts; and further developing procedures to automate various activities within Office control. In fiscal year 1987, the office will continue to perform its regular functions.

Informal Dockets

The Informal Docket Activity is responsible for the adjudication of claims filed against carriers arising from violations of the shipping statutes. The vast majority of these claims concern freight adjustments for overcharges. During fiscal year 1985, the Activity assisted in the development of a procedure to reflect the award of compounded interest in informal dockets cases where reparation is granted, thereby meeting the requirements of the Shipping Act of 1984.

Administrative Services

The Administrative Services Activity provides contracting, procurement, property, supply, mail, telecommunications, space management, photocopying facilities, safety, and emergency evacuation services for the Commission.

During fiscal year 1985 (1) the contracting activity increased considerably, entering into agreements with Census, GSA, Journal of Commerce and Bekins, to name a few; (2) the property activity automated its inventory by use of a microcomputer; (3) telecommunications expanded to include data transferring by both word processors and microcomputers; (4) office space was adjusted to provide better space utilization and working environments within Bureaus of Agreements and Trade Monitoring, Tariffs and Hearing Counsel; (5) the supply activities operating procedures were reviewed towards providing better service to the Commission's offices; and (6) the emergency evacuation program was reestablished and reorganized with other agencies occupying the building.

Management Analysis

The Management Analysis Activity conducts internal studies and audits to (1) assess efficiency, effectiveness and economy in the use and management of agency resources and (2) determine if desired program results and objectives are being effectively achieved. The Activity is also responsible for obtaining clearances from the Office of Management and Budget for recordkeeping and reporting requirements imposed on the public; carrying out other phases of the Paperwork Reduction Act of 1980; and coordinating government-wide programs such as emergency preparedness and records management.

During fiscal year 1985, the Activity coordinated the clearance of rules implementing the Shipping Act of 1984, as well as other proposed rules issued by the Commission.

Informal Inquiries and Complaints

The Office of Informal Inquiries and Complaints (OIIC), within the Office of the Secretary, coordinates the Commission's informal complaint handling activities by receiving, recording and tracking complaints, and assuring timely replies by various bureaus and offices. OIIC keeps the Commission informed of current problems and advises on the impact of proposed rules, policies and programs. The Office encourages participation in development of Commission rules and regulations. In addition, it assists the general public in securing available informational materials.

During fiscal year 1985, OIIC processed 1,165 complaints and information requests. The largest problem area was transportation of personal and household effects by NVOCCs which delayed them before shipment overseas or held them up at foreign destinations causing hardship and extra expense. By working closely with underlying carriers and in some cases through referral to local and state agencies, shipments were located and finally delivered. In many other complaints, by writing to principals located abroad, OIIC secured attention from top management whenever local agents in the United States took disinterested positions.

As a short-range objective during fiscal year 1986, OIIC seeks to provide a statistical program to recover source information to assist other bureaus and offices in establishing patterns of complaints. The network program of developing referral sources for complaints beyond Commission jurisdiction will be updated in 1986 thereby continuing to provide service to the public. As to long-range goals, OIIC seeks in fiscal year 1986 to continue improvement of complaint handling techniques at headquarters and field offices. This goal will be aided by the improved networking system and prepared informational materials. It is anticipated that the number of complaints received in 1987 will continue to increase at a rate of approximately 10 percent annually.

Energy and Environmental Impact

The Office of Energy and Environmental Impact, within the Office of the Secretary, ensures Commission compliance with the National Environmental Policy Act of 1969 (NEPA) and the Energy Policy and Conservation Act of 1975 (EPACA). Its duties are to: (1) examine all Commission actions to determine whether the Commission's decisions will have a significant impact upon environmental quality or energy consumption; (2) issue environmental assessments and impact statements when appropriate; and (3) recommend to the Commission regulatory strategies consistent with national environmental goals or designed to promote energy efficiency and conservation.

	1985	1986	1987
Total Number of Workyears	25	24	24

Office of the General Counsel

The Office of General Counsel advises the Commission on legal issues and provides legal counsel on matters under consideration. The Office reviews the legality of proposed Commission rules, drafts proposed rules to implement Commission policies, renders formal and informal written opinions on pending adjudicatory matters, and prepares draft decisions and orders for Commission ratification. The Office of the General Counsel is also responsible for defending and enforcing Commission orders in court. This litigation work largely consists of representing the Commission upon petition of review of its orders filed with the Circuit Courts of Appeals. The Office also represents the Commission or its employees before other tribunals where the Commission's interest may be affected by litigation. Finally, the Office is responsible for preparing or presenting testimony to Congress on various maritime regulatory matters. The following are representative of matters prepared by the Office.

Docket No. 85-17 - Financial Reports by Vessel Operating Common Carriers by Water in the Domestic Offshore Trades, 23 S.R.R. 355 (July 31,1985).

This proceeding was initiated to amend the Commission's rules governing the filing of financial reports by carriers in the domestic offshore trades. The Commission utilizes financial reporting forms promulgated by the Maritime Administration for domestic water carriers. Changes in those forms by the Maritime Administration required similar amendments to the Commission's regulations.

Docket No. 85-8 - In the Matter of the Independent Action Provisions of the Atlantic and Gulf/West Coast of South America Conference Agreement, Order Granting Petition for Declaratory Order, 23 S.R.R.390 (1985).

The Commission issued an order granting the petition which determined that neither brokerage nor freight forwarder compensation is a "rate or service item" within the meaning of section 5(b)(8) of the Shipping Act of 1984 and that the Act, therefore, does not provide for a mandatory right of independent action with regard to forwarder compensation of freight brokerage.

Docket No. 85-3 - Matson Navigation Company Proposed Overall Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports, 23 S.R.R. 263 (June 28, 1985).

This proceeding was initiated to determine the reasonableness of a rate increase filed by Matson Navigation Company. An initial decision found the rate increase to be justified. On exception, the Commission could not reach a final decision due to an evenly divided vote that resulted from a vacancy on the Commission. The rates in question were deemed to be just and reasonable by operation of the Intercoastal Shipping Act, 1933 for purposes of that Act.

Docket No. 84-35 - Electronic Filing of Tariffs By Common Carriers in the Foreign and Domestic Offshore Commerce of the United States, 23 S.R.R. 82 (March 14, 1985).

The Commission promulgated rules for the utilization of electronic tariff filing services by common carriers. The rules provide that carriers may electronically file amendments with registered electronic filing services located in the Commission's Washington, D.C. headquarters building. These services must then file hard copy tariff pages with the Commission by 9:00 a.m. of the following day.

Docket No. 84-27 -Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States; Co-loading Practices by NVOCC's, 23 S.R.R. 123 and 350 (1985).

After soliciting comments from interested persons, the Commission issued a rule governing the co-loading practices of non-vessel operating common carriers (NVOCCs). The rule requires NVOCCs to indicate in their tariffs whether they engage in co-loading with other NVOCCs and, if so, requires them to notify the underlying shipper that its cargo has been co-loaded and with whom. In addition, the rule prohibits special rates in an NVOCCs' tariff solely for co-loading with other NVOCCs.

Subsequently, several NVOCCs raised questions concerning the application of the rule. As a result, the Commission modified the rule to clarify that all NVOCCs are required to comply with its requirements, regardless of the type of co-loading relationship they have established with another NVOCC. The rule was further amended to clarify that the name of any NVOCC with whom the shipment is co-loaded must appear on the face of the bill of lading in a clear and legible manner.

Docket Nos. 84-26 and 84-32 -Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984, 22 S.R.R. 1453 (1984).

The Commission issued a Final Rule which implemented those provisions of the Shipping Act of 1984 governing agreements by or among ocean common carriers as well as certain marine terminal operator agreements.

Docket No. 84-22 -Actions to Address Conditions Unduly Impairing Access of U.S. - Flag Vessels To Ocean Trade Between Foreign Ports, 22 S.R.R. 1408 (1984).

The Commission issued a Final Rule which implemented section 13(b)(5) of the Shipping Act of

1984. The Rule addresses, among other things, factors which would indicate conditions unduly impairing access of U.S.-flag vessels in cross trades, petitions for relief, proceedings, decisions, definitions, and sanctions.

Docket Nos. 84-21, 84-23 and 84-24 -Service Contracts, Loyalty Contracts and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States, 22 S.R.R. 1424 (November 9, 1984).

These consolidated proceedings implemented the provisions of the Shipping Act of 1984 relevant to tariff filing by common carriers and the use of loyalty contracts and service contracts by such carriers. Major features of the new regulations include substantially streamlined provisions governing the filing of through transportation rates, reduced requirements for the filing of new inland points for intermodal rates and rate reductions, and new rules governing the filing of rates by conferences on behalf of controlled carriers. Provisions relating to service contracts include the filing requirements for such contracts and their related statements of essential terms, a prohibition against modifications during the term of such contracts unless provided for in the contract and the establishment of return and rejection procedures. The use of loyalty contracts was permitted without prior clearance by the Department of Justice, in light of the applicability of the antitrust laws to such agreements.

Docket No. 84-21, 84-23, 84-26 - Order Denying Petitions for Reconsideration, 23 S.R.R. 117 (1985).

The Commission issued an order denying certain petitions for reconsideration filed in response to the issuance of final rules on service contracts, loyalty contracts, and agreements.

Docket Nos. 84-6 and 84-8 - Port Authority of New York v. New York Shipping Association, 23 S.R.R. 21 (1985).

The Commission found that the agreement used by the New York Shipping Association to fund longshoremen's benefits was unfair and unjustly discriminatory to the Port of New York and New Jersey and a carrier in the Puerto Rican trade. The Commission modified the agreement to remove the unfairness and unjust discrimination and ordered assessment adjustments in favor of the carrier in the Puerto Rican trade. Court appeals by all major parties followed. The parties thereafter entered into a settlement which made assessment adjustments in favor of the Puerto Rican carrier, established a new assessment agreement, and provided for withdrawal of the appeals.

Docket No. 82-1 and 82-10 - California Cartage Co., Inc. et. al. v. Pacific Maritime Association, 23 S.R.R. 212 (May 23, 1985) and 23 S.R.R. 420 (Aug. 15, 1985).

This proceeding was remanded to the Commission by the Ninth Circuit Court of Appeals. Thereafter, the Pacific Maritime Association moved to dismiss the proceeding on the basis that the standing available to the complainants was extinguished by enactment of the Shipping Act of 1984, which, inter alia, amended the Maritime Labor Agreements Act, 1980. The Commission denied that motion but held that the 1984 Act amendments limited the relief available to complainants to reparations rather than the prospective relief they sought. The complainants rejected the reparations remedy and moved for a final disposition of the case. The Commission dismissed the proceeding. The case is now before the Court of Appeals on a Petition for Review filed by Complainants.

Special Dockets Nos. 1220 and 1225 - Application of Hapag-Lloyd AG for the Benefit of General Motors Corporation, 23 S.R.R. 200 (1985); Special Docket No. 1168 - Application of United States Lines (S.A.) Inc. for the Benefit of Miles Laboratories, 23 S.R.R. 428 (1985).

The Commission announced a new policy applicable to freight charge refund or waiver requests under section 8(e) of the Shipping Act of 1984, the "special docket" procedure. In a reversal of previous policy, the Commission stated that a carrier that has negotiated an intermodal service with a shipper, but failed through clerical error to file a tariff covering that service prior to shipment, and that can comply otherwise with the jurisdictional requirements of the special docket procedure specified by the statute, need not prove that it actually provided the full service originally contemplated in strict accordance with its tariffs in order to file a special docket application for the benefit of its shipper.

In the Matter of Petition for an Amended Statement of Policy Concerning the Status of Shippers' Associations Under the Shipping Act of 1984, 22 S.R.R. 1629 (1985).

The American Institute for Shippers' Associations, Inc. filed a petition with the Commission seeking a determination that membership and participation in shippers' associations is limited to the "owners or beneficial owners" of the goods shipped through the association. The Commission denied the Petition, primarily on the ground that the applicable statutory provisions, together with their legislative history, do not permit the interpretation urged by AISA. AISA subsequently appealed the Commission's decision to the United States Court of Appeals for the District of Columbia Circuit. Upon motion of the Commission, that appeal was dismissed for lack of jurisdiction.

Definition of "Package", 23 S.R.R. 111 (1985).

The Commission denied, as beyond its authority, a petition of Dow Chemical Company for a rulemaking proceeding to define "package" for the purposes of the Carriage of Goods by Sea Act.

In the Matter of Petition for Rulemaking Concerning Shippers' Associations, 22 S.R.R. 1624 (1985).

Several conferences petitioned the Commission to initiate a rulemaking proceeding which would set forth certain procedures which would have to be followed by a purported shippers' association prior to a common carrier or conference having an obligation to negotiate with it. The Commission determined that Petitioners' fears of potential antitrust exposure were not sufficiently compelling to justify the proposed rule. In addition, the Commission noted that carriers or conferences can promulgate their own tariff rules concerning the subject matter. Accordingly, the Commission denied the petition.

Part 500 - Employee Responsibilities and Conduct, 49 Fed. Reg. 44363 (November 6, 1984).

The Commission issued a revision of its Standards of Conduct (46 C.F.R. Part 500). This revision made modifications to the rules governing gifts, entertainment, and favors, added procedures relating to enforcement of restrictions on post employment activity and made other technical and clarifying changes.

Court Litigation

American Institute for Shippers' Associations, Inc. v. F.M.C., D.C. Cir. No. 85-1227 (1985).

The American Institute for Shippers' Associations, Inc. filed a petition for review of the Commission's order denying its Petition for an Amended Statement of Policy Concerning the Status of Shippers' Associations Under the Shipping Act of 1984, served February 15, 1985 (22 S.R.R. 1629). Subsequently, in response to the Commission's Motion to Dismiss, The Court of Appeals for the District of Columbia Circuit dismissed the petition for review, on the ground that it lacked jurisdiction.

Puerto Rico Maritime Shipping Authority and Puerto Rico Marine Management, Inc. v. FMC & USA, and consolidated cases, D.C. Cir. No. 85-1129, et al.

Five petitions for review of the New York assessment cases (FMC Docket Nos. 84-4 and 84-6) were filed by all the major parties. Subsequently, these Petitions were dismissed pursuant to a settlement embodying a new assessment agreement.

Legislative Developments

The primary focus of the Commission's legislative activity during the past year was an attempt to amend the Administrative Orders Review Act of 1950 (28 U.S.C. 2342) to clarify that all rules, regulations and final orders issued by the Commission will be initially reviewed in the United States courts of appeals, rather than first in the federal district courts, with a subsequent right of appeal to the courts of appeals. This activity was prompted by passage of the Shipping Act of 1984, without a concomitant amendment to 28 U.S.C. 2342.

The Commission prepared a draft bill and explanatory statement and sent them to the relevant Congressional committees. The Senate subsequently adopted the Commission's proposed bill as an amendment to the Maritime Appropriation Authorization Act for Fiscal Year 1986 (S. 679). The House did not adopt similar legislation, however, and instead, Congressman Rodino introduced H.R. 3049. This bill will essentially accomplish the same results as the proposed bill originally preferred by the Commission. It was referred to the House Judiciary Committee and was the subject of hearings held on July 29, 1985 before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice. At that time, the Commission's Vice Chairman submitted a prepared statement in support of the bill. The bill was recently approved for full committee action.

During fiscal year 1985, 74 bills, proposals and Congressional inquiries were referred to the Office of Legislative Counsel for comments. Action was timely completed on all of these referrals. The Office of Legislative Counsel also prepared and coordinated testimony for five Congressional hearings.

Codification of Title 46 of the United States Code

Pursuant to the requirements of section 2(j) of the Act of August 26, 1983 (Pub. L. 98-89, 97 Stat. 599), the Commission submitted to Congress a draft bill to codify those laws within the Commission's jurisdiction relating to shipping and maritime matters. The Commission developed this submission in consultation with the Law Revision Counsel of the House of Representatives. The proposed bill makes no substantive changes in the basic laws which are included, but does make extensive style and organizational changes consistent with the purposes of the codification of Title 46.

	1985	1986	1987
Total Number of Workyears	16	16	16

Office of Administrative Law Judges

Administrative Law Judges conduct hearings and render decisions in adjudicatory proceedings held after receipt of a complaint or instituted by the Commission. Judges have authority to administer oaths and affirmations; issue subpoenas; rule upon motions and offers of proof and receive evidence; take depositions; regulate the course of hearings; hold prehearing conferences for the settlement or simplification of the issues involved; dispose of procedural requests; and, take any other action authorized by agency rule or the Administrative Procedure Act.

The caseload of the Office is governed by the number of complaints and applications filed, the number of formal proceedings instituted by the Commission on its own motion and other matters assigned in furtherance of the Commission's regulatory functions. Proceedings which come before the Administrative Law Judges include, but are not limited to, the adjudication of discriminatory practices between various parties subject to the Shipping Acts, and adjudication of shipper complaints and domestic rate cases.

At the beginning of fiscal year 1985, there were 58 formal proceedings pending. Through September 30, 1985, 155 new formal proceedings were added, hearings were conducted in 10 cases; prehearing conferences were held in 11 cases; 166 initial decisions were issued; 10 cases were otherwise settled without formal decision; and there were 37 formal proceedings pending at the end of the reporting period. Of the 166 initial decisions issued, 5 were subsequently adopted by the Commission and 135 became administratively final. Most of the other 26 decisions were pending consideration at the end of the fiscal year.

During fiscal years 1986 and 1987, the Office will continue to conduct hearings and render decisions on adjudicatory proceedings.

	1985	1986	1987
Total Number of Workyears	8	8	8

Office of Policy Planning and International Affairs

The Office of Policy Planning and International Affairs serves to increase the Commission's planning capabilities, assist the Commission in the formulation of regulatory policy, monitor regulatory reform initiatives undertaken throughout the government, as well as those specifically affecting the Commission, and enhance the agency's responsiveness to new developments and economic trends in the U.S. ocean commerce and the liner shipping industry. The Office is responsible for the following basic functions: (1) serve as the focal point for Commission policy planning and analysis, defining and prioritizing both short and long-range goals and objectives in coordination with other bureaus and offices; (2) develop long-range plans for the Commission on 3-5-10 year bases; (3) monitor and serve as interface between Commission programs and activities and long-range policy objectives; (4) ensure that the Commission is informed about the actions of foreign governments and other international developments which affect liner shipping in the oceanborne trades; (5) represent the Commission in governmental and international shipping policy forums and in bilateral discussions between the U.S. and foreign governments about matters of shipping policy; (6) develop studies and analyses for the formulation of proposed Commission policies and objectives; (7) maintain an information network to ensure that the Commission's policy decisions and other actions are developed on a valid economic basis; (8) conduct economic research and studies necessary for the Commission to fulfill its regulatory responsibilities; (9) provide expert economic testimony and economic assistance to other components of the Commission; (10) screen, review, route and maintain custody of classified U.S. Government and international organization documents; and (11) coordinate and facilitate the Commission's information resource management functions.

The Office achieved the following significant accomplishments during fiscal year 1985:

(1) Conducted short and long-range policy planning as an essential element in the formulation of sound Commission policy decisions.

(2) Continued implementation efforts of the Shipping Act of 1984.

(3) Analyzed the Shipping Act of 1984 with respect to its policy implications for the Commission. Drafted interim and final rules on several sections of the Act. Increased efforts to collect and analyze data for the 5-year study required by section 18 of the Act to assess its impact on the international ocean shipping industry. Entered into a contract with Census to obtain market share information for section 18(a)(3); with Lloyd's of London for them to develop analyses of vessel service patterns at U.S. ports for section 18(a)(2); and with the Journal of Commerce (JOC) to obtain rate data from the JOC's RATES system and commodity and cargo data from the PIERS system. Completed approximately sixty-two percent of the rate analysis being conducted to establish a record of what has happened to freight rates for section 18(a)(1).

These data are now being analyzed and econometric models are being developed to determine the effects of the Shipping Act of 1984.

(4) Engaged in a broad range of international activities including policy studies, reports and briefings to alert and inform the Commission about the actions of foreign governments affecting liner shipping, impact of the UNCTAD Code of Conduct for Liner Conferences, bilateralism, EEC shipping policy proposals, and OECD shipping policy developments.

(5) Assisted the Commission in its efforts to monitor and take steps under section 19 of the Merchant Marine Act of 1920 and other legislative authority to respond to alleged discriminatory actions of Argentina, Brazil, Bangladesh, Honduras, Japan, Korea, the Philippines, Sri Lanka, Thailand and Venezuela.

(6) Assisted the Commission in its effort to monitor potential cases pursuant to section 13(b) of the Shipping Act of 1984.

(7) Represented the Commission in governmental and international shipping policy forums -- U.S. Interagency Shipping Policy Group and U.S. Consultative Shipping Group discussions -- and participated in bilateral talks between U.S. and foreign government officials in matters of shipping policy.

(8) Participated in several docketed proceedings before the Commission and provided expert testimony in administrative hearings.

(9) Evaluated freight-rate increases in the domestic offshore trades in order to determine the reasonableness of the rate of return earned by the filing ocean carriers.

(10) Coordinated the Commission's automated management information operations.

(11) Monitored legislation and participated in the Commission's reorganization planning necessitated by statutory changes.

(12) Participated in the planning process to implement an automated tariff filing system.

(13) Served as host for foreign visitors to the Commission by coordinating visits and arranging for briefings.

(14) Served as liaison between the Commission and the State Department on maritime regulation matters.

(15) Analyzed and developed the specifications for trade data requirements in order to advise the Commission on the purchase of trade data.

(16) Analyzed current conditions and forecasted trends affecting the U.S. liner fleet.

(17) Collected data on cargo promotion policies of foreign countries.

(18) Contributed articles in shipping journals on topics of interest to the public.

(19) Participated in the Agreements Processing Review Board to screen agreements which might trigger economic criteria contained in section 6(g) of the Shipping Act of 1984 and to screen them for policy considerations.

(20) Prepared report on Transpacific Westbound Rate Agreement for possible injunction under section 6(g) of the Shipping Act of 1984.

Specific objectives for fiscal years 1986 and 1987 include the following:

(1) Collect and analyze information for the 5-year study of the impact of the Shipping Act of 1984.

(2) Update of three and five-year strategic plans.

(3) Continue tariff filing automation project.

(4) Review all staff recommendations and rulemakings for policy content.

(5) Maintain extensive information data base for establishment of policies and plans.

(6) Continue participation in the International Shipping Policy Group, representation at U.S. Consultative Shipping Group discussions and provision of technical assistance regarding U.S. maritime regulatory policy in bilateral governmental discussions.

(7) Advise the Commission about new policy directions and prepare special reports essential to development of policy directions for internal programs and international affairs.

(8) Assist other bureaus and offices on matters requiring economic testimony and analysis.

(9) Participate in and recommend necessary rule changes and analyze comments submitted.

(10) Forecast trade developments and global economic trends.

(11) Brief Commission and staff on key economic, international affairs and policy issues.

(12) Monitor the actions of foreign governments -- laws, decrees and cargo preference policies -- affecting ocean shipping in U.S. foreign trades and foreign to foreign trades.

(13) Assist the Commission in its section 19 and 13(b)(5) actions designed to respond to discriminatory actions of foreign governments or common carriers.

(14) Provide close coordination of Commission activities with other government programs.

(15) Analyze operational and structrual changes in the shipping industry that affect the environment of international liner shipping.

(16) Participate in Agreements Processing Review Board to screen agreements which might trigger economic criteria contained in section 6(g) of Shipping Act of 1984 and to screen them for policy considerations.

(17) Continue automation of Commission functions where it is cost effective.

	1985	1986	1987
Total Number of Workyears	12	13	13

Office of Regulatory Overview

The Office of Regulatory Overview was established in early fiscal year 1985, contemporaneously with the finalization of the Commission's regulations to implement the Shipping Act of 1984 which, by law, had to be in place by December, 1984. In addition to regulations for new statutory requirements, the Commission restructured and updated all of its parts of the Code of Federal Regulations and, as a result of this effort, Title 46 CFR, Parts 500 to End, was published in April of 1985.

In order to intelligently produce all of the rules occasioned by the passage of the 1984 Act within stringent deadlines, the Commission established novel procedures which made that achievement possible. These included scheduling of the assigned drafting of new rules, quality-circle editing and close monitoring of progress to completion. The Office of Regulatory Overview was established and, in fiscal years 1986 and 1987, the Director of the Office will chair a Commission's Committee on Rules, to refine and continue these important functions.

In addition to the final rules appearing in the Code of Federal Regulations, the Office of Regulatory Overview, in fiscal year 1985, coordinated the development of the Commission's own official copies of each CFR part with amendments incorporated as they were finalized. This function will continue in fiscal years 1986 and 1987.

The Office of Regulatory Overview continues to monitor existing and proposed Commission rules and regulations to ensure their effectiveness and compatibility with law, Commission policies, and regulations of other Government agencies; advises and consults with other bureaus and offices regarding necessary or desirable changes to such regulations; ensures the compatibility of internal procedures with new and existing rules and regulations; and acts as liaison with other Government agencies to ensure Commission compliance with their substantive and technical rulemaking requirements. In fiscal year 1985, the Office drafted and circulated to Commission offices a synopsis of Administration goals and a rulemaking style and checklist manual to facilitate drafting of regulations and to ensure compatibility with Administration policies and Federal Register style. Amendments will be circulated in fiscal years 1986 and 1987, as necessary. For fiscal years 1986 and 1987, the Director of the Office will represent the Commission at the Administrative Conference of the United States and will be the Recording Secretary of the Commission's new Advisory Committee on Tariff Automation.

The office maintains and promulgates the Commission's Regulatory Calendar which involves the duty to make semiannual submissions of regulatory agendas to the Office of Management and Budget to be published in the Federal Register. Submissions were made in February and August of 1985, and this function will be the same for fiscal years 1986 and 1987.

After the identification of rulemaking projects, the status of which is updated periodically for Commission monitoring, the Office of Regulatory Overview coordinates all changes to existing and proposed rules and regulations in accordance with Administration rulemaking policies, and drafts and edits recommended changes for Commission promulgation, including model provisions. During fiscal year 1985, 30 rulemaking projects were identified for study and/or drafting and 21 rules were published in the Federal Register, out of which 13 were final rules affecting 24 CFR parts. The number of rulemaking projects for fiscal years 1986 and 1987 will be approximately the same.

In fiscal year 1985, the Office of Regulatory Overview prepared the Commission's draft of the recodification of its portions of Title 46 of the United States Code as required by law to be submitted to Congress in August of 1985. This, along with other chapters of Title 46, is expected to be enacted during fiscal year 1986 and the Office remains available to consult on editing and further drafting of statutory materials and tables.

The Office of Regulatory Overview also performs special drafting projects as requested.

	1985	1986	1987
Total Number of Workyears	2	2	2

Director of Programs

The Director of Programs is the administrator of the operating bureaus which include Agreements and Trade Monitoring, Tariffs, Hearing Counsel and Investigations. The Office assists in the review and appraisal of operating Commission programs, and recommends new programs and broad agency policies. The Office is currently: (1) developing a compliance program which will coordinate the efforts of the operating bureaus to identify common carrier and non-vessel operating common carriers (NVOCCs) which do not have tariffs on file with the Commission; (2) identifying NVOCCs and freight forwarders for investigation; and (3) reviewing procedures for improving the processing of tariffs. The Office is also establishing a surveillance program to use the information to target investigative efforts and develop tariff research to aid in the studies being carried out under sections 6(g) and 18(a) of the Shipping Act of 1984. Enforcement program inprovements are being accomplished through the establishment of a Litigation Board to coordinate strategies and achieve regulatory objectives, set enforcement policies and approve negotiated settlements. Detailed descriptions of these operating programs are listed below.

	1985	1986	1987
Total Number of Workyears	3	3	3

Bureau of Agreements and Trade Monitoring

The Bureau of Agreements and Trade Monitoring is primarily responsible for all agreement activity under the Shipping Act, 1916 and the Shipping Act of 1984. The Bureau's regulatory activity involves the planning, development and administration of programs which effectively regulate agreement activity in the oceanborne commerce of the United States under the aforementioned statutes. These regulations embrace both our domestic offshore and foreign commerce, and apply to ocean common carriers, conferences of such carriers, marine terminal operators, and marine terminal operator conferences.

In carrying out its regulatory responsibilities, the Bureau: (1) maintains the Commission's official agreement records and processes all agreements for compliance with statutory and Commission standards; (2) reviews and analyzes all agreements; (3) recommends rejection of agreements and supporting documents that fail to comply with governing regulations; (4) recommends appropriate Commission action on applications for special permission to waive the requirements of applicable agreement format regulations; (5) initiates complete analysis of all pertinent facets of agreements and supporting documents on legal, commercial, competitive and economic bases in order to apprise the Commission relative to their conformity with the policies, laws and regulations administered by the Commission; (6) provides analytical and technical assistance and support on agreement matters in connection with Commission and Court proceedings, furnishes expert testimony when required; (7) maintains a surveillance program over concerted activities of ocean common carriers, conferences and marine terminal operators, to ensure against concerted action without a governing agreement on file with the Commission or concerted activity beyond the scope of such agreement; (8) maintains an enforcement program to appropriately deal with concerted statutory violations of section 10 of the 1984 Act and recommends corrective action by the Commission where necessary; (9) ensures that agreements are not substantially anticompetitive in violation of section 6(g) of the 1984 Act; and (10) conducts trade studies and agreement profiles dealing with the competitive and economic facets of each major segment of our oceanborne trades, in order to keep the Commission and its staff apprised of trade developments and alerted to regulatory needs impacting on waterborne transportation.

The Bureau is divided into four operating components: (1) Office of Conferences; (2) Office of Carrier Relationships; (3) Office of Shoreside Agreements and Program Support; and (4) Office of Trade Monitoring. The Bureau Director is responsible for the supervision, administration and operation of these operating components. The Offices of Conferences and Carrier Relationships primarily process major agreements between and among ocean common carriers. The Office of Shoreside Agreements and Program Support processes marine terminal, husbanding and agency agreements and is responsible for the initial elements of the Bureau's agreement processing, file maintenance and automated recordkeeping.

A number of the objectives concerning the processing of agreements are to assure that: (1) conference agreements contain acceptable versions of all statutorily required provisions; (2) agreement language and authority is sufficiently unambiguous to enable a clear analysis of issues relating to sections 6(g) and 10 of the Shipping Act of 1984; (3) no agreement contains authority that is impermissibly open-ended or indeterminate; (4) all agreements on their face do not suggest practices or understandings that are not authorized by the language of the agreements themselves; and (5) agreement recommendations to the Commission contain all relevant and available information pertinent to a determination as to whether an agreement may be in violation of sections 6(g) or 10 of the Act or should be targeted for a more intensive surveillance effort.

The Office of Trade Monitoring exercises surveillance over concerted agreement activity in order to assure that sections 6(g) and 10 of the Act are not being violated by agreements already in effect. Pursuant to this responsibility, a number of the objectives of the Office of Trade Monitoring are to assure that: (1) all reporting, record keeping, and other obligations imposed by statute or rule are met; (2) a "presence" in the industry is established through the timely detection of instances of concerted activity prohibited by the Act; and (3) maintenance and development of the Office's ongoing surveillance information system to enable timely Commission responses to concerted violations of the Act. Other responsibilities and accomplishments of the

Bureau are summarized below.

Recent passage of the Shipping Act of 1984 has substantially revised the regulatory framework governing agreements between or among ocean common carriers and other persons subject to the Act in the foreign commerce of the United States. This legislation requires that agreements be processed according to strict statutory deadlines, i.e. agreements shall become effective 45 days after filing, unless they are rejected by the Commission or enjoined by the United States District Court for the District of Columbia. Accelerated processing requirements also demand greater monitoring of agreements after they become effective to ensure against violation of expressly stated statutory standards and the economic welfare of our trade and commerce.

Resources, methods and techniques continue to be developed or refined to further streamline and assure the quality of the review process. Specific attention is being given to additional areas of exemption and delegated authority. Profiles of major trade areas are being developed to assist in surveillance of effective agreements and related activities. A geographic orientation to trade surveillance has been developed to review major effective agreements and activities in designated trades to determine compliance with all regulatory requirements, and to determine the competitive posture of carriers within each trade.

Agreements Filed Pursuant to the Shipping Act, 1916, and the Shipping Act of 1984

Section 15 of the Shipping Act, 1916, requires the Commission to approve all agreements filed which comply with the commercial and legal requirements of Commission regulations and the Act relative to the domestic offshore commerce of the United States. Approval of an agreement gives the parties immunity from the U.S. antitrust laws for concerted actions authorized by the agreement. Section 15 regulation was not effected by the Shipping Act of 1984 and will continue in the domestic offshore trades.

Agreements Processing

Section 6 of the Shipping Act of 1984 requires the Commission to review all agreements filed by subject persons involving the foreign oceanborne commerce of the United States for compliance with the filing, legal and commercial standards of the Act. When agreements do not comply with these requirements, the Commission must either reject them, investigate them to determine if disapproval, cancellation or modification is required under the Act's standards or seek court injunction against their implementation. Rejection is limited to a patent failure to adhere to statutory standards or Commission regulations. Investigation is appropriate in those circumstances where it appears that an agreement may violate the "Prohibited Acts" section of the Act. Injunctive action by the Court must be based upon a showing by the Commission that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost. Absent such action, agreements filed under this Act automatically become effective and are immune to prosecution under the antitrust laws.

During fiscal year 1985 the Commission completed processing of 522 agreements. The types of agreements processed during the year included conference agreements, pooling and equal access agreements, joint service and consortia agreements, space charter agreements, discussion agreements and terminal agreements.

The Commission completed processing of 230 conference agreements or modifications. The large number of filings were attributable to: (1) further introduction or enlargement of intermodal rate authority, (2) compliance with the Commission's agreement format requirement, and (3) membership changes.

Under the 1984 Act, a significant increase has continued to occur in the formation of new joint service space chartering and rationalization agreements. This experience reflects the increasing commercial attractiveness of such operational configurations, as well as the greater facility with which such agreements can be promptly implemented to meet changing trade conditions under the new legislation's more competitive standards.

During the period, 177 terminal agreements were processed to completion. These filings are generated largely by the rapid growth of containerization and intermodalism. Similar agreements would be expected to be filed in fiscal years 1986 and 1987. However, the Commission has instituted a rulemaking proposal to exempt certain terminal agreement activities and some categories of marine terminal agreements are anticipated to be exempted in fiscal year 1986.

Service Contracts

Section 4(a)(7) of the Shipping Act of 1984 authorizes agreements among ocean common carriers to regulate or prohibit the use of service contracts. At this point, most agreements have been reformatted to conform with the Shipping Act of 1984 and have modified their agreements to specifically provide that service contracts may be entered into with a shipper or shippers' association.

Surveillance

Because of the antitrust immunity given to agreements by these statutes, the Commission is charged with the responsibility of maintaining close surveillance over concerted activities of parties to agreements to ensure that they continue to comply with the law.

The Office of Trade Monitoring has primary responsibilities to: (1) develop and maintain profiles of major trades; (2) detect unfiled agreements; (3) detect activity beyond the scope of existing agreements; (4) determine whether trade conditions have changed so as to enable the agreement to lead to an unreasonable increase in cost or reduction in service; (5) determine whether continued operation of an agreement in its present form is consistent with the statute and current Commission decisions, rules and policies; and (6) monitor agreement activity to ensure compliance with mandatory obligations.

The Office reviews the activities of parties to agreements to ensure that they do not contravene the standards of sections 6(g) and 10 of the Shipping Act of 1984. In its review, the Office performs monitoring through information sources found in the examination of conference minutes, tariffs materials, trade press reports and articles, operating reports, and shipper complaints. Conferences are required to file a quarterly index of all documents related to those subjects pertinent to the Commission's regulatory needs. Minutes of meetings requirements have been expanded to include such entities as joint services, consortia and pooling and equal access agreements. This monitoring alerts the staff to impending regulatory problems and Commission action is recommended where appropriate.

During fiscal year 1985, parties to rate-making agreements filed 2,030 minutes of meetings held. In addition there were 77 shippers' requests and consultation reports, 39 operating reports, 20 pooling reports and 153 indices of documents filed with the Commission and reviewed by the staff.

Self-Policing

Section 5(b)(4) of the Shipping Act of 1984 makes self-policing voluntary and replaces the self-policing provisions of section 15 of the Shipping Act, 1916. This new section requires an independent neutral body form of self-policing for conferences only upon the request of a member line. The Commission does not expect to impose any self-policing reporting requirements. The Commission has adopted a simplified rule requiring that applicable self-policing provisions be incorporated in the agreement language. The extent to which self-policing will be employed within each rate group and the degree to which it is effective will be a matter left to the judgement of the member lines. Thus far, there have been significant cancellations of neutral body policing and there has been some simplification of existing policing provisions.

Exemption from Agreements' Filing or Approval Requirements

Section 16, Shipping Act of 1984, and Section 35, Shipping Act, 1916, each provide that the Commission may by order or rule exempt any class of agreements where it finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory or be detrimental to commerce. Efforts to streamline regulatory procedures continue through the exemption of certain agreement activities from specific filing or approval requirements. During fiscal year 1985, the Commission instituted a rulemaking proposal to exempt certain classes of marine terminal agreements. A final rule is anticipated during 1986.

	1985	1986	1987
Total Number of Workyears	27	26	26

Bureau of Tariffs

The Bureau of Tariffs (1) plans, develops, administers and analyzes programs and activities in connection with the pricing by common carriers by water, conferences of such carriers and terminal operators in the foreign and domestic offshore commerce of the United States; (2) reviews, files and rejects tariff filings; (3) approves or disapproves special permission applications; and (4) initiates recommendations, collaborating with the Bureau of Hearing Counsel and other offices of the Commission as warranted, for formal action and proceedings by the Commission. The Bureau is also responsible for the licensing of ocean freight forwarders under the provisions of the Shipping Act of 1984 and, under Public Law 89-777, the certification of owners and operators of passenger vessels with respect to the financial responsibility of such owners and operators to satisfy liability incurred by non-performance of voyages or resulting from injury or death. The Bureau develops long-range plans, new or revised policies and standards, and rules and regulations, with respect to its program activities.

During fiscal year 1985, the Bureau implemented management initiatives to improve efficiency and productivity. Significant among these was the consolidation of the Office of Domestic Tariffs into the Office of Foreign Tariffs. Activity in the domestic commerce had decreased and, from an administrative standpoint it was determined that the functions could be combined. In addition, the Tariff Compliance Review Board was abolished. The board had been delegated authority to grant or deny special permission applications received from carriers and conferences, and to reject tariff matter. Granting or denying special permission applications and rejecting tariff material have been delegated to the Office of Foreign Tariffs. A separate section was formed to process service contracts since the contracts filed have and will continue to increase steadily. Final rules applicable to this program to implement the Shipping Act of 1984 were issued. Additional management initiatives and the introduction of additional automated equipment are contemplated during fiscal years 1986 and 1987.

Foreign Tariff Activity

Section 8 of the Shipping Act of 1984 requires the filing of rates, charges and rules describing practices of common carriers operating in the U.S. foreign commerce. A major objective of the program is to ensure that these tariffs comply with statutory requirements and the tariff regulations of the Commission. The Office of Foreign Tariffs: (1) reviews all new tariffs within five days of receipt, analyzes and maintains tariff filings of common carriers by water in the foreign commerce of the United States; (2) receives and processes service contracts and the essential terms thereof; (3) acts upon applications for special permission to file tariffs on less than statutory notice or for waiver of tariff filing rules and regulations; (4) rejects improper or incorrectly filed tariffs or recommends alternative appropriate action; (5) prepares recommendations regarding tariff-filing activities and regulations for submission to the Commission for formal action; (6) operates a public reference room to provide assistance to the public in the inspection and copying of tariffs, and other public records, documents, and publications which are on file with or prepared by the Bureau of Tariffs; (7) provides support to other Commission components with respect to tariff matters; and (8) maintains tariffs and microfiche records of cancelled tariff pages.

During fiscal year 1985, the Office received and recorded 601,418 foreign tariff pages and rejected 4,631 pages. In addition, 223 special permission applications were processed. The Office received and processed 2,158 service contracts during fiscal year 1985.

The Shipping Act of 1984 ushered in a change in the shipping statutes in the foreign commerce of the United States which permits carriers and conferences to enter into service contracts with shippers or shippers' associations. Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, wastepaper, or paper waste, each contract entered into under section 8(c) of the Shipping Act of 1984 must be filed confidentially with the Commission and at the same time a concise statement of its essential terms must be filed with the Commissionand made available to the general public in tariff format. The essential terms must be available to all shippers similarly situated.

While the Commission only received 160 service contracts between June 18, 1984 (the effective date of the Shipping Act of 1984) and the end of fiscal year 1984, during fiscal year 1985 there were 2,158 service contracts filed. These contracts were filed by 55 individual ocean common carriers and 21 conferences. This involved approximately 2500 shippers, and the geographic scopes of the contracts include the U.S. Atlantic, Pacific and Gulf coasts and specifically describe points in the United States and points and ports in the Far East, Australia, United Kingdom, Europe, Scandinavia, Africa, Central and South America, both in the inbound and outbound trades.

At the close of the fiscal year the number of service contracts filed was increasing at a rapid pace. At the beginning of the fiscal year service contract filings were averaging 16 per week. At the close of the fiscal yar this had increased to 70 per week. It is anticipated that the increased filings will continue into fiscal years 1986 and 1987. In certain major trades a significant portion of the cargoes are carried pursuant to service contracts.

The Commission implemented its filing regulations governing the use of service contracts in fiscal year 1984. However, our experience with service contracts indicates such regulations may require amendment in order to address issues not originally contemplated. The staff, therefore, intends to recommend that the Commission enter into a rulemaking proceeding in fiscal year 1986 to accomplish this purpose.

Major accomplishments included the full implementation of final rules for the publishing and filing of tariffs pursuant to the Shipping Act of 1984. The significant changes in the tariff filing rules include: (1) the addition of service contracts; (2) filing exemptions for forest products, recycled metal scrap, waste paper and paper waste; and (3) the elimination of the port-to-port "breakout" in intermodal "through rate" tariffs. In addition, the time for filing shippers' claims for overcharges was increased from two to three years, a provision extending tariff notice requirements of an anti-rebate policy to NVOCCs was made mandatory and the use of correction numbers in tariffs was made optional.

Section 15(b) of the Shipping Act of 1984 subjects NVOCCs to anti-rebate certification requirements for the first time. A final rule was implemented effective December 15, 1984, which requires under 46 CFR subsection 582.3 that each NVOCC tariff shall contain an anti-rebate provision, and under subsection 582.2 shall file an anti-rebate certification. During the year, a formal proceeding was initiated against all NVOCCs who failed to meet the due date for this certification.

During the year, the Commission made provision for around-the-clock receipt of electronically filed tariff material. Previously the receiving terminals were required to be located in the Commission's offices. The amended procedures permit this filing to be conducted through commercial offices located in the FMC headquarters building and under appropriate safeguarded conditions.

The Commission added Flota Banaera Ecuatoriana S.A., an Ecuadorear common carrier, and Sudan Shipping Line Limited, owned by the Government of Sudan, to its list of controlled common carriers. Also under review for possible controlled common carrier status are National Shipping Corporation of the Philippines, a Philippines common carrier, and Nauru Pacific Line, a Republic of Nauru common carrier. South African Marine Corporation Limited (Safmarine) requested that it be removed from the Commission's list of controlled common carriers and relieved from the advance tariff filing and other requirements of section 9 of the Shipping Act of 1984. This request was pending Commission action at the close of the fiscal year. In connection with controlled carriers, tariff revisions pertaining to the increase or decrease of rates cannot become effective upon less than 30 days notice, unless special permission is requested and granted. Of the 223 special permission applications received during the fiscal year, 67 were submitted by controlled carriers.

In fiscal year 1985, the several conferences in North and South Atlantic/European trades merged into two separate conferences for administrative purposes. As a result, the number of freight tariffs in these export trades were substantially reduced from 40 to 16.

A general rate increase was filed by the Conference covering the trade from North and South Atlantic Ports to Continental Europe, Baltic and United Kingdom ports. The increase was the first in 18 months in this trade. The reciprocal conference, North Europe-U.S. Atlantic Conference, increased inbound rates effective June 1, 1985. This was the fourth general rate increase the inbound conference implemented in the past 18 months as compared to only one for the outbound conference.

Tariff filing activity increased dramatically in the U.S. Far East trades with the filing of general rate increases and increased minimum per container charges by the member lines of the newly formed Transpacific Westbound Rate Agreement (TWRA). The filings, made to the approximately 119 tariffs of the individual member lines, has activated similar filings by independent common carriers. Further tariff filing activity involved the filing of tariff amendments to cancel all prior independent and conference tariffs of the TWRA members. Due to the enormous task involved in filing the initial TWRA tariffs, the effective date of the TWRA common tariff was postponed. Substantial shipper reaction was received in protest of the TWRA increases. Due to this significant opposition, TWRA commenced filing many thousands of individual rate reductions mostly pursuant to the independent action of the member lines.

In addition to a new conference being formed representing the outbound trade to the Far East area, the Asia North American Eastbound Rate Agreeement (ANERA) was created representing the trade from Far East ports, except Japan, to the United States. All of the former conference tariffs and independent tariffs that fall within the ANERA scope have been adopted by the agreement. Eventually ANERA will publish common tariffs encompassing all of the adopted conference tariffs and independent carrier's tariffs that are parties thereto. (The Commission recently granted special permission to ANERA to publish their common tariffs by April 14, 1986).

The program of microfiching cancelled tariffs and cancelled pages to active tariffs is continuing. During fiscal 1985, approximately 3 million cancelled tariff pages were recorded on microfiche.

Domestic Tariff Activity

Sections 17 and 18(a) of the Shipping Act, 1916, and section 2 of the Intercoastal Shipping Act, 1933, require the filing of rates, charges and rules describing practices of common carriers operating in the U.S. domestic offshore commerce and terminal operators. The Office of Tariffs must ensure that these tariffs comply with statutory requirements and rules pertaining to filing tariffs by terminal operators and domestic offshore carriers.

During fiscal year 1985, there were 11,842 domestic offshore tariff pages and 7,117 terminal tariff pages received and reviewed, of which 544 domestic tariff pages were rejected for failure to comply with the tariff-filing requirements. In addition, 52 domestic special permission applications were processed during the fiscal year. Activities during this period included the review of general rate increases, together with the preparation of investigation and suspension recommendations where necessary; preparation of correspondence relating to criticisms of tariff filings; and preparation of the annual Automobile Measurement Guide. Thirty-six domestic carrier tariffs were cancelled by the Commission due to inactivity in the domestic trades.

Financial Analysis

The Office of Financial Analysis provides accounting and financial expertise to ensure the reasonableness of rates of common carriers in the domestic offshore waterborne commerce of the United States. To accomplish this objective, the Office: (1) develops annual and special financial reports to ensure disclosure of financial data which is uniform, accurate, comprehensive, but not unduly burdensome; (2) recommends and prescribes accounting and reporting procedures; (3) conducts examinations of accounts, records, reports and financial statements to assure compliance with Commission regulations; (4) prepares reports and appears in proceedings where rates, costs, or accounting matters are paramount issues; and (5) conducts special studies and prepares analytical reports of a financial nature for other components of the Commission.

Continuing programs during fiscal year 1986 included the analysis of financial and operating data filed by carriers in the domestic offshore trades in connection with rate increases and offering financial expertise regarding requests for self-insurer/guarantor status with respect to passenger vessel certifications. Similar assistance was provided to the Bureau of Hearing Counsel in connection with illegal activities by vessel operators and freight forwarders for determining whether and to what extent a violator is capable of paying a fine.

The Office is participating in the automation of tariff filings, service contracts and the development of a regulated person index.

The Office completed the amendment of financial reports filed by self-propelled vessel operators, and undertook a similar project with respect to tug and barge operators. The procedure involves the modification of forms used by carriers operating in the domestic offshore trades to report financial and operating data and will result in a lessening of the regulatory burden imposed on such carriers.

Freight Forwarders

The Commission's statutory authority for the licensing of ocean freight forwarders is contained in section 19 of the Shipping Act of 1984. Ocean freight forwarders serve export shippers by arranging for a variety of accessorial services, processing and preparing export documentation, and booking cargo with common carriers. Forwarders receive payment for services rendered from their export shipper-clients. Forwarders also receive the compensation from common carriers in return for booking the cargo. The Commission's rules implementing the provisions of the legislation are currently being reviewed to ascertain whether there are areas that could be "fine-tuned" and/or deleted to lessen the regulatory burden upon the industry without substantially altering the overall mandate intended by Congress.

During fiscal year 1985, the Commission received 152 applications for new ocean freight forwarder licenses, and 161 applications for the approval of transfer of licenses or other organizational changes. One hundred seventeen new license applications were approved; one application was denied, seven applications were withdrawn and 27 applications were returned to applicants because of deficiencies which prevented processing. One hundred and sixty applications for transfers and other organizational changes were processed. One hundred thirty-seven licenses were revoked, mainly because the licensees failed to maintain valid surety bonds as required by the Shipping Act. Ninety-one new licenses were issued and thirteen licenses were re-issued to forwarders.

Also during fiscal year 1985, the Office received 2,163 anti-rebate certifications filed under section 15 of the Shipping Act of 1984. A formal investigation was instituted against 74 forwarders who failed to file these certifications. The proceeding was dismissed as those forwarders still active complied by filing the required certification.

On-site investigations are conducted as part of the Commission's effort to ensure that ocean freight forwarders comply with the provisions of the Shipping Act and applicable regulations after they have been licensed. During fiscal year 1985, a review of 126 investigative reports produced the following results: (1) 60 warning letters were sent to licensees; (2) five cases were referred to the the Bureau of Hearing Counsel for the assessment of civil penalties; and (3) 61 cases were judged not to require any formal action. With the expected implementation of a revised surveillance program of forwarders during the coming fiscal year, it is anticipated that the number of investigative report will approximately double.

Other activities during the year included handling 57 informal complaints which mostly involved monies owed by forwarders to shippers and carriers, processing 890 surety bond actions, review of 32 credit reports, and the receipt of 64 reports of claims against forwarder surety bonds totaling $2,004,444. At the end of the fiscal year, 1,595 licensed forwarders were operating under Commission jurisdiction.

Passenger Vessel Certification

The Commission's jurisdiction over passenger vessel operators involves the administration of sections 2 and 3 of Public Law 89-777. The statute applies to owners, charterers, and operators of U.S. and foreign flag vessels which have berth or stateroom accommodations for 50 or more passengers and which board passengers at U.S. ports. The great majority of passenger vessels now operating in the U.S. trades are foreign owned.

During fiscal year 1985, the Commission approved 83 applications for passenger vessel certification, of which 15 were new applications for performance certificates, 17 were new applications for casualty certificates, and 51 were applications for amendments to existing certificates. At the close of fiscal year 1985, 18 applications were pending. Holders of passenger vessel certificates have on file with the Commission evidence of financial responsibility in excess of $220 million for performance certification and $1 billion for casualty certification. Over 1.6 million persons took cruises from U.S. ports during the year.

	1985	1986	1987
Total Number of Workyears	49	43	43

Bureau of Hearing Counsel

The Bureau of Hearing Counsel participates as trial counsel in formal adjudicatory dockets, non-adjudcatory investigations, rulemaking proceedings when designated by Commission Order, and other proceedings initiated by the Commission. Bureau attorneys serve as Hearing Counsel, where intervention is permitted, in formal complaint proceedings instituted under section 22 of the Shipping Act, 1916 and section 11 of the Shipping Act of 1984. In addition to the formal proceedings in which the Bureau participates as a party, the Bureau monitors all other formal proceedings in order to ascertain that major issues affecting the shipping industry and/or the general public, as distinguished from purely private disputes between the litigating parties, are adequately developed. The Bureau also participated in an advisory capacity in the development of Commission rules and regulations. On request, the Bureau also furnishes advice to the staff and the shipping public. On occasion, the Bureau may participate in matters of court litigation by or against the Commission. Bureau attorneys review enforcement reports developed by the Bureau of Investigations, prepare and serve claim letters, and may compromise and settle such civil penalty claims for alleged violations of the shipping statutes and regulations. If settlement is not reached, the Bureau acts as prosecutor in formal Commission proceedings that may result in the assessment of such penalties.

At the close of fiscal year 1984, 98 reports of violations were pending final Commission action. During fiscal year 1985, 32 new reports of violations were received by the Bureau and 85 were compromised and settled, administratively closed, or referred for formal proceedings or action by other Bureaus. As a result, 45 reports of violations were pending final action on September 30, 1985.

As of the close of fiscal year 1984, the Bureau had 17 formal proceedings pending. During the year 15 new proceedings were received and 9 were completed, resulting in 23 formal proceedings on hand as of September 30, 1985. The Bureau provided advice to the agency on more than 270 projects during the fiscal year.

During fiscal year 1984, a new operating plan was developed for the Bureau. This plan was fully implemented in fiscal year 1985, which strengthened the Bureau's functions as legal advisor to the Commission by providing for closer coordination with other bureaus and offices. This is especially true in regard to the carrying out of the Commission's enforcement responsibilities under the Shipping Act of 1984.

	1985	1986	1987
Total Number of Workyears	10	9	9

Bureau of Investigations

The U.S. ocean commerce is systematically monitored to determine compliance with statutory requirements and to deter illegal rebating and other malpractices by carriers, shippers, consignees, and other persons subject to the Shipping Acts by the Bureau of Investigations. Enforcement is carried out through the investigative functions of the bureau and its field offices which are strategically located to cover maritime activities in major U.S. ports.

The Office of the Director exercises full managerial, administrative, and operational control over all field offices, conducts surveillance and trade monitoring programs, and pursues field investigations of possible violations in the District of Columbia, and the states of Maryland, Virginia, West Virginia, Pennsyvania and Delaware.

Enforcement reports of significant malpractices are reviewed and forwarded to the appropriate bureau for further enforcement action. These reports are the basis for claims for civil penalties or, in certain important or novel matters, the basis for recommendations for a formal investigation.

Field Offices

The Federal Maritime Commission's field offices have the responsibility to develop and administer programs in three functional areas: investigations, surveillance, and liaison. Investigations are carried out to document violations of United States shipping statutes by common carriers by water, freight forwarders, terminal operators, importers, exporters and others. Surveillance activities include reviews of service contracts, trade monitoring, post implementation review of agreement activity, common carrier tariff activity, compliance checks of licensed ocean freight forwarders, and auditing of passenger vessel operations for the financial protection of cruise passengers. Liaison involves providing regulatory information and Commission policy to the shipping industry and the public. The field offices also assist the Bureau of Hearing Counsel in preparing formal proceedings before the Commission, and conduct studies and surveys for use in program development and program revision, report trade information, highlight regulatory problem areas, and recommend remedial action.

Field offices are located in New York, New York; New Orleans, Louisiana; Chicago, Illinois; Miami, Florida; Los Angeles, California; San Francisco, California; and San Juan, Puerto Rico.

Detailed below are the types of ongoing investigations conducted by the Field Offices:

(a) Operations of parties to new carrier agreements and carrier agreement modificatins whenever it appears that such agreements and modifications have been implemented prior to filing with the Commission or are being carried out in violation of the shipping statutes.

(b) Carrier operations whenever it appears that a carrier has failed to file appropriate tariffs covering its rates and charges or has charged rates other than those which are in effect and on file with the Commission.

(c) Illegal rebating by carriers and receipt of illegal rebates by importers and exporters in the United States ocean commerce.

(d) Operations of persons or entities carrying on the business of ocean freight forwarding, on behalf of others, without benefit of a license issued by the Commission.

(e) Misdescriptions and misdeclarations of cargo or other malpractices of carriers, shippers, and consignees.

Surveillance activities include:

(a) Trade monitoring programs which are conducted in coordination with other Commission components to determine conditions in the trade which may give rise to violative activities.

(b) Review of service contracts to determine compliance with the terms of the contracts by the signatory parties.

(c) Post-licensing and routine compliance checks of licensed freight forwarders to determine whether their operations are in conformace with regulatory requirements.

(d) Audits of passenger vessel operators to ensure the financial protection of cruise passengers.

Liaison functions are carried out by providing regulatory information and relaying Commission policy to the shipping industry and the public, and also providing the shipping industry and the public a Commission point of contact for inquiries. This activity also includes the handling of informal complaints and inquiries.

During fiscal year 1985 the Bureau of Investigations implemented new and revised programs to incorporate the increased responsibility for monitoring service contracts, ocean freight forwarders and non-vessel operating common carriers, as well as the investigative activities outlined in the "Prohibited Acts" sections of the Shipping Act of 1984. Also, our program to eliminate the backlog of cases over two years old was concluded. The program to improve the quality of investigative cases continued with significant achievements made in fiscal year 1985.

The Bureau has utilized its computerized database to monitor and track all ongoing inquiries and investigations, providing up-to-date reports as needed. This, coupled with the automated equipment used to access electronic databanks, providing shipping and finanical information, has allowed the Bureau to maximize its resources in conducting investigative and surveillance activities.

During fiscal years 1986 and 1987 the Bureau will provide greater direction to the field programs from Headquarters and increased coordination with the Bureaus of Tariffs, and Agreements and Trade Monitoring on surveillance matters.

	1985	1986	1987
Total Number of Workyears	44	41	41

Office of Personnel

The Office of Personnel plans and administers personnel management programs including recruitment, placement, employee training and development, position classification, occupational safety and health, and employee relations. The Director of the Office of Personnel reports directly to the Chairman. Significant achievements in these functional areas during fiscal year 1985 are outlined below.

Program Development

The Office implemented Title II of Public Law 98-615 establishing a Performance Management and Recognition System (PMRS) under which supervisors and management officials in grades GM-13 through GM-15 are recognized and rewarded for performance. The office cooperated with U.S. Office of Personnel Management (OPM) staff in implementing PMRS within the very short time limits specified in the law, and continued to monitor actions taken and legislative proposals offered by OPM with respect to contemplated regulatory changes in the areas of reduction in force, performance appraisal, and the Federal retirement system. Efforts continued in the project to review and evaluate the capabilities of Federal automated personnel, payroll, and administrative payments systems. As a result of these efforts, the Commission has entered into an agreement with another agency to provide these services at a substantial savings from the amount currently expended for payroll and administrative payments alone. The Office also completed a draft Commission Order on workforce discipline and published a Commission Order on advisory committees.

Program Evaluation

The Office participated in an internal audit of its responsibilities under the Civil Service Retirement Act, the Federal Employees Group Life Insurance Act; and the Federal Employees Health Benefits Act; and participated in a review of the Merit Pay system for the years 1982 through 1985, correcting any original payouts found to be in error. The Office also cooperated with the OPM staff in two agency assessment visits.

Employee Relations

During fiscal year 1985, the Office implemented a program to provide comprehensive counseling and assistance services to its employees. This confidential, voluntary program available free of charge makes professional help available to employees. The Office continued its efforts to enhance the working environment of all Commission employees, offering numerous programs relating to health and safety and conducting a safety inspection of Commission Headquarters and District Offices. The annual comprehensive health fair was conducted. Counseling services continued to be provided to those employees contemplating retirement, and included the offer to participate in a pre-retirement seminar. Efforts continued during 1985 to educate supervisors to their responsibilities in the areas of employee performance, the granting of within-grade increases, conduct awards, and discipline. In this connection, the Office issued memoranda discussing these matters and supervisory responsibilities, as well as recent case law issued by the Meit Systems Protection Board. Supervisors were informally counseled with respect to particular problems which they faced. In seeking to resolve performace or conduct-related problems, the Office worked closely with Commission legal advisors to ensure that employees affected by adverse actions were accorded their due rights. The Office also administered the agency's grievance procedure and began the bi-monthly publication of an agency newsletter.

Performance Appraisal

The Office administered the Commission's fourth annual Merit Pay evaluation and pay out. In addition, the Office refined and developed common standards for managerial and supervisory employees, assisted supervisors in preparing new or revised performance standards, necessitated by changes in employee duties, and developed procedures to be followed on detail and collateral duty assignments for mid-level managers and other employees.

Incentive Awards

The Commission's incentive awards program was revitalized by issuing and implementing new policies with respect to the granting of awards and by appointing new members to the Incentive Awards Committee. The Office administered the Commission's program of granting awards to employees for outstanding performance, special achievements, and adopted suggestions.

Staffing

In addition to regular recruitment efforts, during fiscal year 1985, the Office responded to Commission needs to fill newly-established or redefined positions in offices whose missions were directly affected by enactment of the Shipping Act of 1984. New recruitment strategies were developed in traditionally hard-to-fill occupations. To cope with the continuing problem of attrition in its clerical ranks, the Office continued its overhire system. Advice was provided on the feasibility of effecting internal reassignments to meet critical program needs. Efforts continued to provide human resources within funding limitations, including the use of summer employment, part-time employment, volunteer, and cooperative education programs.

Training

The Office resumed an agency-wide training program during fiscal year 1985. In addition, the Office initiated a program to provide employees with the skills necessary to operate microcomputers purchased as part of the Commission's automation program.

Position Classification

The Office participated with management officials to prepare position classifications for newly-created positions, and organize work for realigned organizations. A major undertaking during the year was the monitoring of positions in the GS/GM 11 through 15 grade range, and the steps the Commission is taking to improve grade and position structures in this range, without sacrificing efficiency in program operations. The Commission continued its analysis of positions in connection with recommendations for employre promotions. For all positions reviewed, evaluation statements were prepared, and Office staff met with supervisors to discuss alternative job restructuring approaches to enhance certain positions. Fifty positions were audited or reviewed for classification accuracy during the year.

	1985	1986	1987
Total Number of Workyears	7	7	7

Office of Budget and Financial Management

The Office of Budget and Financial Management, whose Director reports directly to the Chairman, is responsible for optimal utilization of the Commission's physical, fiscal, and staffing resources. In discharging these responsibilities, the Office formulates recommendations and interprets budgetary policies and programs; prepares budget justifications and estimates for the Congress and the Office of Management and Budget; and develops and administers fiscal plans and systems of internal control which provide accountability for agency funds. The Office is also responsible for financial management policies, procedures, and planning; determining proper user fees; and administering the Commission's travel and cash management programs.

The objectives of this Office include: 1) submit annual budget justifications and estimates to OMB and the Congress in a timely manner; 2) execute the budget to ensure appropriated funds are properly expended; 3) prepare regular financial reports to aid management decisions; 4) administer the control system over workyears of employment; 5) collect all fees and forfeitures due the Commission; 6) process payments to vendors as efficiently and expeditiously as possible; 7) ensure resources are used properly to avoid fraud, waste, and error; 8) process travel orders and vouchers within established time limits and requirements; and 9) review internal controls and accounting procedures to ensure they conform to existing regulations, and develop procedures to correct any deficiencies.

During fiscal year 1985, the Office participated in a review of the Merit Pay system for the years 1982 through 1985 by correcting original calculations to correspond to new guidance issued by the Office of Personnel Management. The Office participated on the task force formed to review and evaluate the capabilities of other Federal agencies to provide personnel processing and accounting services and also participated in the steering committee established to evaluate the tariff automation project. The Office also drafted a revised Commission Order on official travel; evaluated the costs of services and publications provided by the agency to determine new user fees; fine-tuned the electronic transfer system used for fines and penalty payments in order to accelerate cash deposits to the U.S. Treasury and reduce the paperwork burden; improved processing of payment of bills to make optimum utilization of available prompt-pay discounts and eliminate the backlog of prior year problem payments; provided management with information and analysis of positions in grades GS/GM 11-15; reviewed and commented on proposed agency PMRS guidelines; monitored agency workyear levels, obligations and outlays to ensure their conformity to amounts approved and appropriated; and collected and deposited $602,298 from user fees, fines, collections, freight forwarder licensing and vessel certification fees.

During fiscal years 1986 and 1987, the Office will continue to update financial control procedures; refine the financial management system; improve the processing of payments; and, pursue initiatives leading to economy and efficiency in budget and financial operations.

	1985	1986	1987
Total Number of Workyears	4	4	4

360

Mr. SMITH. Chairman Hickey, do you have a statement?

STATEMENT OF EDWARD V. HICKEY, JR., CHAIRMAN, FEDERAL MARITIME COMMISSION

Mr. HICKEY. Yes, I do. Good morning, Mr. Chairman.

I would like to submit my formal statement for the record and, with your permission, briefly summarize it.

Mr. Chairman and Members of the Subcommittee, it is a pleasure to appear before you today to present the fiscal year 1987 budget estimates of the Federal Maritime Commission.

With me today from the Federal Maritime Commission are Bob Bourgoin, the General Counsel; Jerry Smith, Director of the Office of Administration; and Frederick F. Trutkoff, Director of the Office of Budget and Financial Management.

The Commission's budget request for fiscal year 1987 is $11,940,000, which is an increase of $70,000 over 1986. This provides funding for 214 work years, the same amount of work years reflected in our 1986 appropriation. I would also note that our request is the same as that provided in the President's budget, and is sufficient to permit us to meet our responsibilities.

One of the primary responsibilities of the Commission during 1987 will be the continued implementation of the Shipping Act of 1984. As you know, this landmark legislation, which has been effective for almost two years, significantly altered the regulation of the ocean shipping industry though it is too early to make any long term conclusions about the impact of the Act, it does appear initially to be achieving its intended purposes. Agreements among carriers are becoming effective much more quickly. Many conferences have consolidated their services. Intermodal service is increasing, as is the use of independent action and service contracts.

Given, this new regulatory framework, it has become increasingly important for the Commission to ensure that the 1984 Act is being used properly. Therefore, during fiscal year 1987 the Commission intends to initiate a coordinated surveillance and enforcement program which will focus on areas having a significant impact throughout the industry.

We also intend to continue our efforts to consider the feasibility of an automated tariff filing system. An advisory committee made up of representatives from 20 parties directly affected by tariff automation met last month and will meet two more times this year to offer its advice to the Commission. In addition, our feasibility study will continue during 1987 with the hope that we can have a pilot system operating by 1988.

The Commission anticipates that the substantial growth in the use of service contracts experienced in 1986 will continue during fiscal year 1987. Accordingly, we must be in a position to adequately review these filings to ensure that they meet all statutory and regulatory requirements.

We will also continue to collect and analyze data on the impact of the Act for the report which we must provide to the Advisory Commission on Conferences in Ocean Shipping in 1989.

Mr. Chairman, I believe that the Commission's 1987 budget estimate is responsive to our statutory mandate and today's economic realities. I therefore urge its favorable consideration. I would be pleased to respond to any questions you may have.

[The prepared statement of Edward V. Hickey, Jr. follows:]

STATEMENT OF
THE HONORABLE EDWARD V. HICKEY, JR.
CHAIRMAN
FEDERAL MARITIME COMMISSION
BEFORE THE
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON COMMERCE, JUSTICE,
STATE, AND JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 21, 1986

Mr. Chairman and members of the Subcommittee. It is a pleasure to appear before you today to present the Fiscal Year 1987 budget estimates of the Federal Maritime Commission.

With me today are Robert D. Bourgoin, the Commission's General Counsel, Wm. Jarrel Smith, Jr., the Director of the Office of Administration, and Frederick F. Trutkoff, the Director of the Office of Budget and Financial Management.

Before addressing our specific budget estimate, I would like to make one point. The Federal Maritime Commission is a regulatory agency. We do not administer any grant programs and, as a result, we exercise very limited discretionary spending. The Commission's budget is strictly an operating budget. Personnel costs, including salaries and benefits, constitute approximately 80 percent of the total budget.

I turn now to our budget estimate for fiscal year 1987. It is in the amount of $11,940,000, and provides funding for 214 total workyears of employment. This is the same amount of total workyears reflected in our fiscal year 1986 appropriation. However, compared to our budget appropriation of $11,870,000 for 1986, the 1987 estimate represents an increase of $70,000. This increase includes $38,000 for personal services and $32,000 for administrative expenses.

Mr. Chairman, I would also note that the amount we are requesting for 1987, $11,940,000, is the same as that provided in the President's proposed budget. In my opinion, approval of our 1987 budget estimate will allow us to meet our responsibilities in an efficient and effective manner.

The budget estimate also reflects the changes which will occur if, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the Commission's 1986 appropriation is reduced by $510,000 to $11,360,000. The Commission has considered a number of options to meet this reduced figure, including the furloughing of employees. We believe that we can achieve these reductions, at least for this year, through savings in non-critical areas, such as travel, training, and limitations on new hiring. In addition, the Commission has recently reorganized several offices to achieve greater efficiency and this should help meet these reduced levels.

Now I would like to address some of the major activities proposed in the 1987 budget.

As you are aware, Mr. Chairman, the Shipping Act of 1984 has significantly altered the regulatory scheme over the ocean shipping industry. Although it is too early to make any long-term assessment of the impact of the Act, early indications are that it is producing its intended results. Most agreements filed with the Commission are becoming effective at the conclusion of the 45-day waiting period and the Act has succeeded in doing away with the litigious and time-consuming procedures attendant to regulation under the 1916 Act. There have also been several consolidations of previously existing conferences, and, as a result, the Commission has fewer agreements on file. In addition, many conferences which previously did not have intermodal authority have now obtained that authority and are offering through intermodal service to an increasing number of inland United States points.

Shippers are also beginning to take advantage of the 1984 Act. Several thousand service contracts have been filed with the Commission and the right of independent rate action, mandated by the Act for conference members, has been frequently exercised.

What we have experienced so far are the initial, cautious steps of an industry acclimating itself to a new era. However, the severe overtonnaging which exists in most U.S.-trades makes any attempt to gauge the long-term impact of the Act somewhat more difficult. Nonetheless, now that the industry has begun to work together, we expect these early trends to accelerate.

As you know, carriers now have much more flexibility to structure their commercial arrangements and can quickly effectuate these relationships. However, that flexibility is not completely unfettered. To ensure against possible abuses, Congress designated a series of prohibited acts to guide the conduct of those involved in our waterborne foreign commerce. For the 1984 Act to work as envisioned, these activities must be eliminated to the fullest extent possible. Accordingly, in fiscal year 1987, the Commission intends to initiate a coordinated surveillance and enforcement program to be administered by the Bureau of Investigations. This program will focus on areas which can have significant impact throughout the industry, rather than simply reacting to complaints of potential violations as they arise.

During fiscal year 1987, the Commission will continue its efforts to review the feasibility of an automated tariff filing and information system to replace the Commission's manual system for receiving and filing tariff materials. The Commission's present system is considered by many to be antiquated. Some carriers today have to transfer their tariff information from electronic media to hard copy just so they can file it with the Commission.

An advisory committee, composed of representatives from the agency, the information industry, and elements of the shipping public, has been established to obtain input from all parties affected by tariff automation. The Committee held its first meeting last month and will meet two more times this year.

A study is also under way to identify and analyze available alternatives to automating tariffs and to weigh the technical and economic feasibility of an automated system. After the completion of the feasibility study, the Commission hopes to begin the systems design and development phase in 1987, so that a pilot system can be operational by 1988. The Commission is requesting funding for this effort in the amount of $180,000. Our ultimate goal is to develop a system that meets the regulatory and enforcement needs of the Commission, is compatible with commercial uses of tariff data, is more accessible to users, and seeks to recover costs incurred in the development and operation of the system by means of user fees, to the extent permitted by law.

We are also striving to achieve greater processing efficiencies in all our functions through increased automation. Eventually, we would like to automate all processing functions within the Commission.

The 1984 Act authorizes the use of service contracts in our foreign commerce and subjects that use to the oversight of the Commission. All such contracts and statements of their essential terms must be filed with the Commission and the essential terms must be made available to similarly situated shippers. Initially, use of service contracts started slowly. During the last quarter of fiscal year 1984, we received only 160. However, the use of service contracts has since increased dramatically. We now have over 4,500 filed with us and they are arriving at the rate of 24 a day. The Commission must review these filings to ensure that they comport with statutory and regulatory requirements. In addition, the Commission must actively monitor the use of service contracts to ensure that all their terms and conditions are met. We anticipate that the use of service contracts will continue to grow during fiscal year 1987.

The Shipping Act of 1984 also requires that the Commission collect and analyze information regarding the impact of the Act on the international ocean shipping industry. The information to be collected relates to increases or decreases in tariffs, changes in common carrier services available to ports, the number and strength of independent carriers, and the cost of major regulatory proceedings before the Commission.

The staff has made considerable progress in fulfilling its mandate. Significant amounts of data have already been collected and the staff has held 16 meetings with the other departments and agencies with which we are to share the data. The staff is also receiving considerable assistance from various industry groups, including shippers, carriers, and port authorities.

Under the provisions of the 1984 Act this information will form the basis of the report which the Commission will make to the Advisory Commission on Conferences in Ocean Shipping, due to be established in late 1989.

Mr. Chairman, the Commission and its 214 employees have the responsibility for regulating the transportation of cargo by liner operators in both the United States foreign commerce and our domestic offshore commerce, an industry which accounted for over $139 billion of liner cargo in 1983. Administering the shipping statutes over such a large and vital industry is a significant undertaking. The Commission's 1987 budget estimate is responsive to both our statutory charter and the economic realities we all face today. It will allow us to get the job done. Mr. Chairman, I urge your favorable consideration of our submission.

I will be pleased to respond to any questions.

REPROGRAMMING

Mr. **Smith**. With regard to the sequestration, you have a reprogramming proposal?

Mr. **Hickey**. Yes, sir.

Mr. **Smith**. Tell us briefly about that for the record.

Mr. **Hickey**. Our reprogramming proposal includes the reorganization of several offices in our agency, and we are also holding back on hiring, limiting hiring. We haven't stopped hiring, but we have just slowed down on hiring.

We have cut back on travel, we have cut back on training, we have cut back on contractual requirements, purchasing, and in doing so we were able to get down to the $510,000.

Mr. **Smith**. Without any furloughs or R-I-Fs?

Mr. **Hickey**. Yes; exactly. That was our main goal, without any future losses or rifs. We did close the Chicago office, but that was due to lack of work there.

Mr. **Smith**. How does this affect your 1987 activities, reprogramming this way in 1986?

Mr. **Hickey**. The 1987 amount that we are asking for, $11,940,000, is what we would need to carry on the programs that we started this year.

IMPACT OF GRAMM-RUDMAN

Mr **Smith**. You rearranged 1986 in order to comply with Gramm-Rudman?

Does that have an impact on your activity levels, your various activity levels in 1987?

Mr. **Hickey**. Will something be hurt by not continuing?

Mr. **Smith**. Right.

Mr. **Hickey**. With programs we would not be able to finish and so forth?

Mr. **Smith**. Right.

Mr. **Hickey**. We are going to look at that very carefully. We are going to make sure that we don't hurt any of our programs.

However, if we were to work in 1987 at the same level as 1986, in other words, with the Gramm-Rudman cuts, we would really be hurting, but for now it won't hurt any programs in 1987.

FY 1986 TRAVEL

Mr. **Smith**. You reprogrammed money out of travel, didn't you?

Mr. **Hickey**. Yes.

Mr. **Smith**. For example, what does that do with your travel requirements for 1987? Is it just travel that you didn't need to do anyway?

Mr. **Hickey**. No.

Mr. **Smith**. Does that back up the demand for travel in 1987?

Mr. **Hickey**. It will back up the demand for travel in 1987, yes. It is travel for the field offices mainly.

If we continue at the reduced level we would be hurting our investigative efforts in the field, but by rearranging travel now, we are able to accommodate the Gramm-Rudman cuts, at least for now.

Mr. **Smith**. You have certain statutory responsibilities.

Does it cut into them?

Mr. **Hickey**. Not to my knowledge.

Mr. **Smith**. Essentially what you are requesting here are some small differences, but essentially a straight line budget from 1986?

Mr. **Hickey**. Yes.

Mr. **Smith**. Thank you very much.

Mr. **Hickey**. Thank you, Mr. Chairman.

[The following questions and the answers thereto were submitted for the record:]

Questions for the Record from Congressman Ralph Regula

Question. Your projected travel expenses for fiscal year 1987 total $100,000 which includes routine travel for conducting hearings and investigations, as well as a number of FMC-related responsibilities. Generally, how many people utilize these travel practices?

Answer. Approximately 55 Commission employees travel during a fiscal year. They travel primarily to conduct hearings and investigations, but they also meet with industry and government officials concerning maritime matters of national and international interest.

Question. On page 11 of your budget justifications, you propose $667,000 for "other services." Please explain what these services entail.

Answer. The "other services" totaling $667,000 in our 1987 budget consist of the following expense items:

Equipment maintenance	$77,000
Reporting services	15,000
Tariff automation	184,000
Section 18a study	141,000
Training	35,000
GSA provided services for health, building protection and accounting services	140,000
Miscellaneous expenses	75,000
Total	667,000

Question. Cuts in your funding under the Balanced Budget and Emergency Deficit Control Act of 1985 include the closing of the Great Lakes District Office in Chicago. How large is this office, and what is its volume of work? Will an absence of this regional office on the Great Lakes require additional travel on behalf of the Atlantic District Office which will assume the responsibilities of the Great Lakes office?

Answer. The Great Lakes District Office was staffed with one investigator and one secretary. This staffing was commensurate with the investigative and surveillance work load within the Great Lakes District's geographical area. However, closure of the Office will be cost effective because a significant portion of the work load will be absorbed by the Atlantic District Office in New York. The Atlantic District Office will make quarterly visits to the Great Lakes' area, but most of the expenses for these trips will be covered by travel funds previously allocated for the Great Lakes District Office. This arrangement will result in a material cost savings to the Commission without serious disruption of vital functions.

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FRIDAY, FEBRUARY 21, 1986.

SECURITIES AND EXCHANGE COMMISSION

WITNESSES

JOHN SHAD, CHAIRMAN
GEORGE G. KUNDAHL, EXECUTIVE DIRECTOR
JOSEPH A. GRUNDFEST, COMMISSIONER
EDWARD H. FLEISCHMAN, COMMISSIONER
DANIEL L. GOELZER, GENERAL COUNSEL
JOHN J. HUBER, DIRECTOR, DIVISION OF CORPORATION FINANCE
GARY LYNCH, DIRECTOR, DIVISION OF ENFORCEMENT
KATHRYN B. MCGRATH, DIRECTOR, DIVISION OF INVESTMENT MANAGEMENT
RICHARD G. KETCHUM, DIRECTOR, DIVISION OF MARKET REGULATION
GREGG A. JARRELL, CHIEF ECONOMIST
A. CLARENCE SAMPSON, CHIEF ACCOUNTANT
LAWRENCE H. HAYNES, COMPTROLLER

OPENING STATEMENT

Mr. SMITH. This morning we have the SEC here to testify with the chairman, John Shad. The budget request is for $110,050,000, which represents an increase of $3,727,000 above the 1986 Appropriations Act with a sequestration of $4,777,000.

At this point we will put the justifications in the record:

U.S. SECURITIES AND EXCHANGE COMMISSION

MCMXXXIV

BUDGET ESTIMATE
FISCAL 1987

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

1986 appropriation	$111,100,000
Proposed change	- 1,050,000
Proposed 1987 appropriation	$110,050,000

APPROPRIATION LANGUAGE
SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $2,000 for official reception and representation expenses, [$111,100,000] $110,050,000.

60 Stat. 810; 5 U.S.C. 551-59, 601-12, 701-06, 1305, 3105, 3109, 3344, 5362, 7521; 11 U.S.C. 101-151326; 15 U.S.C. 77a-77bbbb, 78a-78kk, 78aaa-lll, 79-79z-6, 80a1-80a52, 80b1-80b21; 44 U.S.C. 3501-3520; Pub. L. No. 96-433; Pub. L. No. 96-477; Pub. L. No. 97-303; Pub. L. No. 97-444).

STATUTORY AUTHORITY

The Securities and Exchange Commission was created by the Securities Exchange Act of 1934 as an independent, quasi-judicial agency. It administers a group of statutes in the area of securities and finance, which seek to protect the investing public by providing full disclosure, by regulating the nation's securities markets and by preventing and policing fraud and malpractice in the securities and financial markets. These statutes are, in addition to the 1934 Act, the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. By terms of Chapter II of the Bankruptcy Code, the Commission also participates in the Federal courts in certain corporate reorganization proceedings in which there is a substantial public interest. The Securities Investor Protection Act of 1970 gives the Commission certain oversight and other responsibilities with respect to the Securities Investor Protection Corporation.

1. Securities Act of 1933 - The 1933 Act requires issuers of securities to provide investors with financial and other information concerning new issues of securities and outstanding issues which are offered for public sale by issuers, parties with a controlling interest in the issues, and others. The Act also prohibits misrepresentation, deceit, and other fraudulent acts and practices in the offer and sale of securities.

2. Securities Exchange Act of 1934 - The 1934 Act requires certain issuers of publicly-traded securities to file registration applications, proxy materials, and annual and other reports with national securities exchanges and with the Commission. Persons directly or indirectly acquiring the beneficial ownership of more than five percent of any registered class of equity security, must furnish reports containing information. Persons initiating, supporting, or opposing tender offers with respect to any registered class of equity security, are also subject to the Act and to Commission rules and regulations. The Act details a regulatory and reporting pattern for securities transactions by directors, officers, and principal stockholders. Registration with the Commission is also required for self-regulatory organizations, e.g., securities exchanges, national securities associations, and clearing agencies. Securities brokers and dealers engaged in interstate commerce are regulated by the Commission and the self-regulatory organizations under the Act. The Securities Act Amendments of 1975 amended the Securities Exchange Act in substantial respects, and expanded the Commission's regulation and oversight of the securities industry. The 1975 amendments:

(a) directed the Commission to facilitate the establishment of a national market system, linking all markets for qualified securities by modern data processing and communications facilities. To achieve that objective, the Commission was directed to help create a national market system and regulate the activities of its participants. In addition, the amendments directed the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. The amendments also imposed registration and other regulatory requirements upon securities information processors and transfer agents. In addition, the Commission was directed to eliminate the physical transfer of stock certificates between parties.

(b) strengthened the Commission's regulatory authority over self-regulatory bodies (e.g., securities exchanges and associations of brokers and dealers) and their members. The Act requires Commission approval of rules proposed by self-regulatory organizations and grants to the Commission the power to review denials of access or membership as well as disciplinary actions. Furthermore, brokers and dealers, as well as other entities, are obliged to report information on missing, lost and stolen securities, while officials of registrants and other personnel are subjected to fingerprinting requirements.

(c) required institutional investment managers to file periodic reports, unless otherwise exempted, disclosing particular facts with respect to their holdings, and to make public reports on the management of accounts consisting of equity securities with substantial market value; and

(d) set forth a comprehensive pattern for the registration and regulation of bank and non-bank municipal securities dealers by the Commission. The Municipal Securities Rulemaking Board was established to prescribe rules in regard to designated areas of concern for the municipal securities industry and its professionals.

The Insider Trading Sanctions Act (ITSA), signed into law in August, 1984, made additional significant amendments to the 1934 Act. ITSA authorizes the Commission to seek a civil penalty on up to three times the profit gained or loss avoided as a result of insider trading transactions. (Authority to obtain injunctive and other equitable relief against such conduct is not affected.) ITSA also increased the maximum fine for a criminal violation of the 1934 Act from $10,000 (established in 1934) to $100,000. In addition, the Criminal Fine Enforcement Act of 1984, signed into law on October 30, 1984, increased the maximum fines for federal criminal offenses. The effect of the Act is to increase the criminal fines for insider trading and most other securities law cases to $250,000 for individuals and $500,000 for organizations, or twice the pecuniary gain to the offender or loss to the victim, if that amount is higher.

ITSA also: (1) prevents circumvention of existing prohibitions of insider trading by explicitly prohibiting unlawful conduct in derivative securities such as options; (2) adds commodities law violations as a basis for statutory disqualification under the 1934 Act; (3) extends the Commission's authority to bring administrative proceedings to remedy violations of Section 14 of the 1934 Act; and (4) amends Section 15(c)(4) of the 1934 Act to clarify the Commission's authority to proceed administratively against officers or directors or other individuals who cause a failure to comply with Sections 12, 13, 14, or 15(d) of that Act, as well as against the issuer.

3. Public Utility Holding Company Act of 1935 - This Act regulates holding companies controlling electric and gas utilities respecting: physical integration of public utility and related properties of holding company systems and simplification of financial and corporate structures of those systems; financing activities, acquisitions and dispositions of securities and properties, accounting practices, and servicing arrangements of holding company systems; and the rights of persons affiliated with a public utility to acquire securities of other public utilities.

4. Trust Indenture Act of 1939 - The rights and interests of purchasers of debt securities issued under mortgage indentures and sold publicly are safeguarded through the protective provisions of this Act. The Act also requires that the indenture trustee shall be "independent" and free of any interest which might conflict with the proper exercise of its duties.

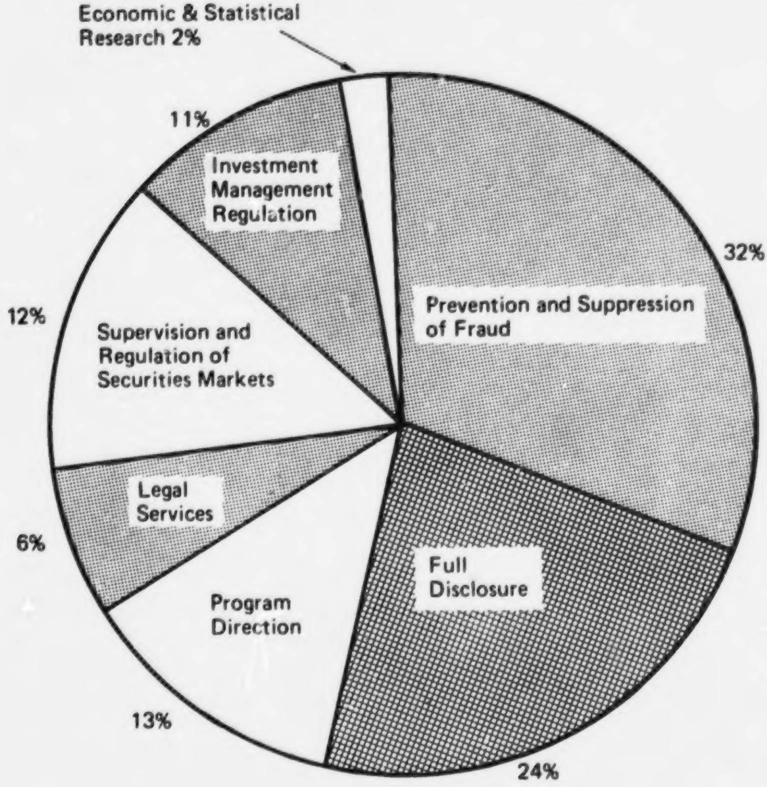
5. Investment Company Act of 1940 - This Act requires investment companies to register with the Commission and subjects their activities to regulation by the Commission. This regulation includes oversight of the composition of board of directors, capital structure, and transactions with affiliated persons. The Act was amended by the Investment Company Amendments Act of 1970 to provide additional protection for investors. One of the principal amendments specifies that an investment adviser has a fiduciary duty with respect to the receipt of compensation from an investment company and provides that the Commission and shareholders may initiate legal action for court enforcement of this duty. The 1970 amendments also authorize the Commission, in conjunction with the National Association of Securities Dealers, to regulate charges levied in connection with investment company sales. The Commission is empowered to promulgate rules dealing with problems such as insider trading in an investment company's portfolio securities, the establishment by investment companies of codes of ethics, and the plans developed by sponsors and other sellers to carry out their refund obligations. In addition, the 1970 amendments give the Commission new authority to institute administrative proceedings to bar persons who have violated the federal securities laws from the investment company business. The Small Business Investment Incentive Act, enacted in October, 1980, further amended this Act to remove certain inappropriate regulatory burdens on venture capital companies engaged in furnishing capital to small businesses.

6. Investment Advisers Act of 1940 - Persons who engage in the business of advising others with respect to their security transactions must register with the Commission. This Act prohibits certain kinds of fee arrangements, prohibits fraud, and requires disclosure of any adverse interests the adviser may have in transactions executed for his clients. Amendments to this Act in 1960 expanded the authority of the Commission by empowering the Commission to require investment advisers to keep books and records, providing for regular and periodic inspections of registered investment advisers, expanding the power for denial or revocation of registration of investment advisers, and authorizing the Commission to issue rules and regulations which prohibit fraudulent, deceptive, and manipulative practices by investment advisers. Further amendments to this Act in 1970 removed exemptions for investment advisers whose only clients are investment companies registered under the Investment Company Act and with respect to contracts of investment companies with registered advisers. These amendments also strengthened disciplinary controls over investment advisers, making them similar to the provisions in the Securities Exchange Act of 1934 relating to disciplinary controls over broker-dealers.

7. Bankruptcy Code - Chapter 11 provides a comprehensive procedure for the rehabilitation of financially distressed companies. The Commission participates in selected bankruptcy cases to protect the interests of public investors.

8. The Securities Investor Protection Act of 1970 - The Securities Investor Protection Act of 1970 created the Securities Investor Protection Corporation (SIPC), which provides protection for the funds of customers of broker-dealers in the event of liquidation. The Commission is required to review and approve proposed changes to the bylaws and rules of SIPC, and may require SIPC to adopt, amend, or repeal any SIPC bylaw or rule. In addition, the Commission may make loans to SIPC in the event of a shortfall in the SIPC fund used to pay customer claims. The Commission may participate in any proceeding brought by SIPC for the protection of customers, and, in the event that SIPC refuses to commit funds or otherwise to act for the protection of customers, the Commission may seek a court order requiring SIPC to discharge its obligations. Finally, the Commission may examine SIPC, require SIPC to submit such reports and records as the Commission considers necessary, and submit comments to be transmitted with SIPC's annual report to the President and Congress.

FY 1987 Positions by Major Program



U.S. SECURITIES AND EXCHANGE COMMISSION

ACTUAL COSTS FOR 1985, PROGRAM FOR 1986, AND ESTIMATE FOR 1987

	1985 Actual		1986 Estimate Gramm-Rudman Hollings		1986 Estimate		1987 Estimate	
	Posi-tions	Aggregate of Salaries	Posi-tions	Aggregate of Salaries	Posi-tions	Aggregate of Salaries	Posi-tions	Aggregate of Salaries
FULL DISCLOSURE								
Corporation Finance	277		277		277		280	
Applications and Reports Services	66		66		66		66	
Chief Accountant	22		22		22		22	
Consumer Affairs and Information Services	29		29		29		29	
Electronic Filing	21		35		35		41	
Regional Offices	64		64		64		61	
Sub-Total	479		493		493		499	
PREVENTION AND SUPPRESSION OF FRAUD								
Enforcement	198		201		201		219	
Applications and Reports Services	13		12		12		12	
Consumer Affairs and Information Services	12		12		12		12	
Regional Offices	431		436		436		418	
Sub-Total	654		661		661		661	
REGULATION OF SECURITIES MARKETS								
Market Regulation	120		120		120		120	
Applications and Reports Services	12		12		12		12	
Regional Offices	115		115		115		115	
Sub-Total	247		247		247		247	
INVESTMENT MANAGEMENT REGULATION								
Investment Management	111		112		112		112	
Applications and Reports Services	19		18		18		18	
Regional Offices	84		98		98		98	
Sub-Total	214		228		228		228	
LEGAL SERVICES								
General Counsel	92		92		92		92	
Opinions and Review	6		6		6		6	
Administrative Law Judges	7		7		7		7	
Regional Offices	23		23		23		23	
Sub-Total	128		128		128		128	
ECONOMIC & STATISTICAL RESEARCH								
Office of the Chief Economist	8		8		8		8	
Directorate of Economic & Policy Analysis	35		35		35		35	
Sub-Total	43		43		43		43	
PROGRAM DIRECTION								
Executive Staff	42		41		41		41	
Secretary	21		21		21		21	
Executive Director	19		18		18		18	
Comptroller	29		29		29		29	
Personnel	29		29		29		29	
Information Systems Management	69		69		69		69	
Administrative Services	64		65		65		65	
Public Affairs	8		8		8		8	
Sub-Total	281		280		280		280	
HEADQUARTERS TOTAL	1,329		1,344		1,344		1,371	
REGIONAL OFFICE TOTAL	717		736		736		715	
GRAND TOTAL - AUTHORIZED	2,046		2,080		2,080		2,086	
Permanent Annual Salary Rate		$69,619,252		$72,163,387		$72,163,387		$73,821,522
Less: Savings (Lapse)	(132)	(2,927,276)	(166)	(4,254,387)	(106)	(1,786,387)	(113)	(2,853,522)
Cost of Permanent Positions	1,914	$66,691,976	1,914	$67,909,000	1,974	$70,377,000	1,973	$70,968,000
Cost of Temporary Positions	26	380,355	20	293,000	20	293,000	20	293,000
Overtime and Holiday Pay		435,976		380,000		394,000		394,000
Other - Awards		472,167		485,000		485,000		485,000
TOTAL COST OF SALARIES AND STAFF YEARS	1,940	$67,980,474	1,934	$69,067,000	1,994	$71,549,000	1,993	$72,140,000
OTHER EXPENSES:								
Personnel Benefits		$ 7,746,094		$ 8,069,000		$8,364,000		8,419,000
Benefits to Former Employees		156,690		80,000		80,000		80,000
Travel and Transportation of Persons		2,562,805		2,516,000		2,616,000		2,616,000
Transportation of Things		30,779		58,000		58,000		58,000
Communications and Rental		13,528,305		13,562,000		13,862,000		13,008,000
Printing and Reproduction		1,106,711		1,138,000		1,188,000		1,188,000
Other Services		9,039,822		8,707,000		10,007,000		10,007,000
Supplies and Materials		1,664,447		1,530,000		1,580,000		1,580,000
Equipment		1,740,509		1,596,000		1,796,000		954,000
Claims and Indemnities		11,491		0		0		0
SUB-TOTAL, OTHER EXPENSES		$37,587,643		$37,256,000		$39,551,000		$37,910,000
Total Expenses		$105,568,117		$106,323,000		$111,100,000		$110,050,000
Actual Savings		813,883		0		0		0
TOTAL APPROPRIATION OR ESTIMATE		$106,382,000		$106,323,000		$111,100,000		$110,050,000

SUMMARY OF CHANGES

The Commission's budget request for 1987, as approved by the President, provides for a reduction of $1,050,000 from the appropriated 1986 funding level. The following table displays the requested budget changes. A narrative explanation of each item follows:

	1987 Request		
	Posi-tions	Staff Years	$(000)
Summary of Changes:			
1986 - Gramm-Rudman-Hollings funding level	2,080	1,934	$106,323
Sequestration amount	—	60	4,777
Appropriation provided by P.L.99-180	2,080	1,994	$111,100
1987 -			
A. Base Changes -			
1. Mandatory salary and personnel benefits	—	—	$ + 674
2. Rental of space	—	—	- 704
Total Base Changes	—	—	$ - 30
B. Program Changes -			
1. Edgar	+ 6	+ 3	$ - 736
2. Average employment	—	- 4	- 134
3. Closing of Arlington Office	—	—	- 150
Total Program Changes	+ 6	- 1	$ -1,020
Total Changes	+ 6	- 1	$ -1,050
1987 - Appropriation request	2,086	1,993	$110,050

1986 - Explanation of Gramm-Rudman-Hollings sequestration - The Balanced Budget and Emergency Deficit Control Act, (P.L. 99-177) contains provisions which triggered a 4.3 percent sequestration of the Securities and Exchange Commission's 1986 appropriation. Savings will be achieved through a reduction of 60 staff years and the cost avoidance and/or forgoing of various services. The affected object class accounts are:

	$(000)
Salaries	$2,482
Personnel Benefits	295
Travel	100
Communication and Rentals	300
Printing	50
Other Services	1,300
Supplies	50
Equipment	200
Total	$4,777

1987 - A. Explanation of base changes -

1. Mandatory salary and personnel costs include $674,000 provided by the President for partial funding of 1987 within-grade increases mandated by 5 U.S.C. 5335 and merit increases under the Performance Management and Recognition System (P.L. 98-615), codified at 5 U.S.C. 5402.

2. A reduction of $704,000 in rental of space costs will result from a new cost calculation system, titled RENT, developed by the General Services Administration for charging customer agencies for space and related services.

B. Explanation of program changes -

1. Edgar costs will be reduced a net $736,000 in 1987. Staffing costs of $106,000 for three staff years will be offset by an $842,000 reduction in equipment costs.

2. A four staff year reduction in average employment will be applied to the Supervision and Regulation of Securities Markets program.

3. Closing of the SEC's Arlington office, resulting from an upgrade of the Philadelphia location to a regional office, will result in savings of $34,000 in telephone expenses and $116,000 in rental of space.

Full Disclosure

Program Summary

Organizations	FY 1985 Actual Staff Years	FY 1985 Actual Cost (000)	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Cost (000)	FY 1986 Appropriation Estimate Staff Years	FY 1986 Appropriation Estimate Cost (000)	FY 1987 Estimate Staff Years	FY 1987 Estimate Cost (000)
Corporation Finance	261.4		255.5		262.4		265.4	
Consumer Affairs and Information Services	27.9		25.8		26.6		26.6	
Applications and Reports Services (OARS)	62.3		60.2		62.1		62.1	
Chief Accountant	18.5		17.9		18.5		18.5	
Electronic Filing (Edgar)*	18.0		34.0		35.0		38.0	
Regional Offices	59.5		57.1		58.9		55.9	
Sub-Total, Salaries and Benefits	447.6	$16,973	450.5	$17,402	463.5	$18,004	466.5	$18,192
Non-Personnel Expenses		10,715		10,544		11,197		10,289
Total Program Cost		$27,688		$27,946		$29,201		$28,481

* See following tab for program narrative.

This program provides investors with material information and inhibits fraud in the public sale, voting, trading and tendering of securities. Market growth continues to trigger increased workload in all areas of the program.

The 1986 appropriation would permit the staff to review 20% of all annual reports and monitor another 3%. Resources would also be available to review 64% of the first-time and 25% of the repeat 1933 Act registrations. Staff reviews of 16% of the annual meeting proxies and 100% of the proxy contest filings would be completed. Over 15 rulemaking projects would be undertaken and 1,250 no-action and interpretive letters issued. Regional staff would review 96% of the Regulation A and S-18 filings. OARS would promptly receive and distribute the increased volume of filings expected. The Chief Accountant would participate in 145 investigations and issue 14 rule amendments and bulletins.

Gramm-Rudman-Hollings: In comparison with the 1986 appropriation, at the Gramm-Rudman-Hollings funding level, review of filings will decline in three areas. Full reviews of annual reports will decline from 20% of those received to 18%, while monitoring of annual reports will drop from 3% to zero. Reviews of annual meeting proxies will drop from 16% to 14% of those received. Regional staff will review 5% fewer S-18 filings. The receipt and distribution of filings by OARS staff will be delayed and full acceptance reviews of filings will be limited to 1933 Act registrations. Consumer affairs staff will experience delays in handling FOIA requests and appeals. The Chief Accountant will issue 7% fewer rule amendments and reduce oversight of private sector standard-setting activities.

The 1987 request will permit the staff to review over 19% of the annual reports and monitor another 3%. Some 64% of the first-time and 25% of the repeat 1933 Act registrations will receive full review. Over 75% of the tender offer, proxy contest, and merger filings will also be analyzed. Twelve rulemaking projects will be completed. The staff will issue 1,250 interpretive/no-action letters. Regional staff will review 96% of Regulation A filings and Form S-18 registrations. OARS will process a projected 9 percent increase in filings. Consumer affairs will coordinate responses to almost 1,900 FOIA requests, and the Chief Accountant's Office will participate in 150 investigations involving significant accounting/auditing issues.

Full Disclosure

Mission

The Full Disclosure Program mission is to provide investors with material information and to prevent fraud and misrepresentation in the public trading, voting and sale of securities. The Commission's principal disclosure authority derives from two statutes: the Securities Act of 1933 (1933 Act), which requires issuers to make disclosures concerning their business and financial affairs when publicly offering securities; and the Securities Exchange Act of 1934 (1934 Act), which requires issuers to file periodic reports with the Commission and to provide certain disclosures in proxy solicitations, tender offers, and ownership reports.

The principal filings under the 1933 Act are registration statements made on Forms S-1, S-2, S-3, S-4, S-11, and S-18. The principal small business filing is the Form S-18, an optional short form for public offerings. The principal 1934 Act filings include registration statements (Form 10), annual reports (10-K), quarterly reports (10-Q), current reports (8-K), materials for proxy contests, mergers and annual meetings, and tender offer schedules. In proxy contests, two or more filers seek shareholder support for their proposals, such as control of boards of directors. Tender offers involve contests for corporate control in which bidders and targets make Williams Act filings with the Commission, the most time-sensitive documents the SEC receives.

The program accomplishes its mission through the following activities:

Review of Filings: The Commission reviews filings to ensure compliance with disclosure requirements and to refer appropriate matters for enforcement action. The integrated disclosure system, which relies, in part, on the use of continuously reported 1934 Act information in 1933 Act registration statements, has maintained investor protection, improved issuer access to the securities markets, fostered new methods of financing, and reduced reporting costs. To handle the large number of documents received annually, filings are selectively divided into three groups: those that are reviewed, those that are monitored and those that are not reviewed. For example, most initial public offerings (IPO's) under the 1933 Act should receive a full review as they constitute the issuer's initial entry into the federal disclosure system. Nevertheless, a significant number of 1933 Act IPO's do not require staff review. These filings generally fall into three categories: limited partnership offerings by a general partner that has previously made a similar offer; conversion of a bank to a bank holding company where the bank has previously filed under the securities laws with another Federal agency; and, currently registered corporate entities forming holding company structures. While these filings are technically IPO's, in substance they are repeat filings which would not benefit from review. As a practical matter, therefore, virtually all IPO's are fully reviewed. In a review, the Commission's staff provides comments to assist filers with the disclosure requirements. Filers who amend identified deficiencies avert the possibility of costly investor litigation or SEC enforcement action. The comment process helps ensure that the information needed to make informed decisions is available to investors and thus facilitates the capital formation process.

To maintain the integrity of an active trading market, reviews are made of a company's disclosures, whether or not the company is involved in a sale of securities. The integrated disclosure and selective review systems depend, therefore, on staff review of 1934 Act filings, primarily Form 10-K's, as well as the review of selected repeat 1933 Act registrations. Examination of 10-K's is particularly important as they provide material information to both the primary and the secondary trading markets.

Rulemaking: Rulemaking is undertaken to meet investor needs, improve and simplify disclosure, establish uniform requirements, and eliminate unnecessary regulation. The objective is to reduce regulatory burdens consistent with investor protection.

Legal and Interpretive Advice: The legal staff provides views on exemptions and disclosure requirements to assist filers. Advice is provided through no-action and interpretive letters that apply securities laws to specific situations, through interpretive releases that furnish guidance on general interest matters and through exemptive orders that provide relief from specific legal requirements. The staff applies the Freedom of Information Act (FOIA), Privacy Act, and Government in the Sunshine Act to requests for SEC information, answering them within statutory time limits. Requests come from private and professional investors, attorneys, brokers, accountants, parties in litigation, and the public.

Regional Office Disclosure: Regional offices ensure compliance with disclosure requirements for small businesses through the review of Form S-18 registration statements filed under the 1933 Act and Regulation A filings (for small issuers seeking an exemption from formal filing requirements). The regional staff provides extensive assistance to small business filers through pre-filing conferences and comment letters. As necessary, the staff also refers appropriate matters for enforcement action.

Document Receipt and Distribution: The document processing staff receives and distributes filings to provide maximum public access to information. All major categories of filings are filmed by a contractor who sells copies to the public and supplies the agency with indexed archival and public reference microfiche.

Public Information: The Commission receives and files documents and microfiche, providing public access to filed documents and assistance relating to securities filings. The staff also coordinates agency-wide FOIA requests, confidential treatment requests and Government in the Sunshine Act requests.

Accounting Policy: The federal securities laws authorize the Commission to establish the accounting methods to be used by registrants and their auditors. Fair and accurate financial statements are particulary important in making investment decisions. The Commission relies heavily on private sector organizations to establish accounting and auditing standards, subject to its oversight. The Office of Chief Accountant monitors the self-regulatory activities of accounting firms practicing before the Commission (including peer review) to increase public confidence in the performance of public company auditors. The office also provides advice on complex accounting questions in filings or investigations.

Program Environment

The program operates in a securities market environment where, in the first 10 months of calendar 1985, almost $1.2 trillion of equity securities were traded on exchanges and the NASDAQ and where the total value of securities registered under the 1933 Act exceeded $256 billion.

By 1987, the number of 1933 Act filings is expected to increase 11.9% over 1985 levels. Over the same period, the number of S-18's filed in the regions is expected to increase 10%. Total filings processed by the Division of Corporation Finance are expected to increase 7.2% over 1985.

The program's rulemaking activity will continue at a high level. The Regulatory Flexibility Act and the Paperwork Reduction Act will require the review of new and existing rules to avoid undue impact on small businesses and duplicative regulation.

In the accounting policy area, the staff expects a high level of private sector standard-setting activity as well as a substantial number of peer reviews, both of which will necessitate SEC oversight. Moreover, the Commission will continue to devote more staff accounting resources to enforcement investigations into auditing and financial reporting.

By 1987, the staff expects the total number of full disclosure filings received by the document receipt and distribution staff to increase 20% over 1985 levels. During the 1985-1987 period, the volume of documents and microfiche received and filed by the public reference staff and the number of telephone inquiries will rise 10%. Moreover, by 1987, the staff projects a 5% increase in both FOIA and confidential treatment requests.

1985 Program Evaluation

Review of Filings: The Division of Corporation Finance completed a reorganization to conduct its mission more effectively, to better assist capital formation, and to improve support to the integrated disclosure system. The reorganization enhanced the emphasis on the review process by increasing the number of review branches from 10 to 12. By decreasing the number of companies per branch, the nearly 11,000 reporting companies can be reviewed more thoroughly and effectively. The reorganization also eliminated various non-review activities to increase the resources available for reviewing filings by 11.5 staff years. In 1985, the Division handled 70,616 filings, an increase of 8.8% over 1984. Due partly to the donation of 5.7 staff years of unpaid overtime and 1,116 hours of paid overtime, the staff reviewed 60.2% (581) of the first-time registration statements and approximately 26% (950) of repeat registration statements filed under the 1933 Act. The number of IPO's that are, in substance, repeat filings and that do not require review is increasing. In 1985, these IPO's consisted of 215 limited partnership offerings, 169 bank and other corporate conversion filings. The staff received 9,847 10-K's, an increase of 5% over 1984. Of those 2,135 or 21.7% were fully reviewed, a 66% increase over 1984. Approximately 20% (1,683) of the annual meeting proxy statements were fully reviewed, an increase of 38.3% over 1984. Proxy contest filings, which increased 43.3% over 1984, were all fully reviewed.

Time consumed in registration affects an issuer's capital formation ability. Therefore, any reduction in review time is important. While staff turnover required extra management effort, the staff significantly lowered the average review time required before the issue of a first letter of comment to 26.8 days, 6.6% quicker than in 1984.

The review process produced substantial results. Issuers were not permitted to proceed with various securities offerings priced at an aggregate of $291 million, because the staff deemed the business or financial disclosure to be deficient. The staff issued 5,886 letters of comment. These produced 925 amendments to 1933 Act filings for over $54 billion in securities, 44 amendments to tender offers of over $11 billion, 189 amendments to annual reports involving companies with $11.3 billion of publicly traded securities, 49 amendments to proxy contests involving assets exceeding $37 billion, and 117 amendments to merger proxies involving transactions valued at $18.8 billion.

Amendments typically result in material changes to disclosure. For example:

- Staff comments on the valuation of the patent rights to computer hardware and software resulted in a newly-formed corporation reducing its total assets and stockholders' equity by $2.2 million (90%).
- As a result of staff comments, pro forma net income in a registration statement was decreased from $3.7 million to $1.7 million and the offering price was lowered from $10-12 per common share to $6.25. This eventually led to the entire $6 million offering being withdrawn.

Not all matters can be resolved by the comment process. In 1985, 80 matters were referred to the enforcement program. To date, 52 of these matters have resulted in investigations. Enforcement referrals can have significant impacts. For example, in one case the review staff became concerned that companies in a particular industry were using incorrect revenue recognition policies. Monitoring of the industry's 10-K's resulted in an enforcement referral that enjoined a company and certain former officers from further securities violations and caused an amendment to its 10-K restating net income from a profit of $3.4 million to a loss of $9.2 million.

Rulemaking: The staff undertook or completed several significant rulemaking projects. These included: (1) proposing clarification and amendment to Rule 14b-1(c) under the 1934 Act which establishes a means of direct communication between issuers and non-objecting beneficial owners of securities held in street name by broker-dealers; (2) proposing substantive, procedural and technical amendments to 1934 Act proxy rules to update, streamline and clarify these rules; (3) adopting a new 1933 Act registration form, Form S-4, for mergers and other business combinations; (4) adopting a new 1933 Act Form F-4 for foreign issuer business combinations; (5) proposing revisions to Rule 12g-1 under the 1934 Act to raise the total asset threshold for registration of securities; (6) adopting Regulation AFDB concerning disclosure requirements for securities issued by the African Development Bank; (7) issuing a concept release outlining approaches to harmonize disclosure and distribution practices for multinational offerings; (8) proposing Rule 14d-10 to codify the all-holders and best-price requirements under the 1934 Act; (9) proposing rules to codify the filing fee requirements for 1934

Act business combination transactions; and (10) adopting temporary rules to effect electronic filing in the Edgar system. To encourage private sector involvement in rulemaking, the staff convened the fourth annual Government-Business Forum on Small Business Capital Formation and sponsored an SEC-NASAA Uniformity Forum. These results were achieved, in part, through donation of 1.3 staff years.

Legal and Interpretive Advice: The staff responded to 93,640 telephone requests for legal and interpretive advice, 287 requests under the FOIA and Privacy Act, 1,200 requests for no-action letters and interpretive advice, 29 requests for exemptive orders, and 1,627 pieces of Congressional and other correspondence. Of the 1,200 no-action letters, 152 related to capital formation issues. Staff action on 143 of these allowed offerings of $3.65 billion to go forward without registration. In addition, no-action letters were issued on 265 shareholder proposals, resulting in issuer cost savings of $694,600. These results were achieved, in part, through the donation of 1.6 staff years.

Regional Office Disclosure: During 1985, the regional offices received 622 Form S-18's and 168 Regulation A filings. Due to efficiency improvements and donated time, the regional offices reviewed 617 Form S-18's registering $2.2 billion of securities and 166 Regulation A filings, offering $148 million of securities. In all, the staff reviewed 99% of the small business filings received. Comments produced amendments to 506 Form S-18 filings offering $1.6 billion in securities and amendments to 103 Regulation A filings covering $97 million of securities. The revisions to disclosure were often significant. Staff comments regarding the valuation of common stock to be issued in a business combination produced a 20% reduction of the estimated purchase price and a $600,000 reduction of "goodwill" recognized in pro forma financial statements. In two other instances, comments produced a $790,000 (66%) reduction in revenues reported in audited financial statements, and a $540,000 decline in net income reported in audited financial statements. Twenty-nine Form S-18 filings totalling $54 million and three Regulation A filings totalling $2.6 million were withdrawn or abandoned after the staff identified deficiencies that could not be corrected. The regions also provided technical assistance to issuers and investors, responding to over 28,900 phone and 1,640 written inquiries.

Document Receipt and Distribution: Over 324,600 documents were received and made available to members of the public and SEC staff nationwide, most within two to three work days of receipt. The most time-sensitive documents, particularly those dealing with takeovers or tender offers, are generally made available in the public reference room within an hour of receipt. In addition, the staff responded to over 22,900 requests for microfiche and processed over 616,000 pieces of microfiche.

Public Information: The staff received and filed over 300,000 documents and responded to over 98,000 telephone requests for information. Moreover, the staff processed 1,710 FOIA requests and 2,282 requests for confidential treatment of material filed with the Commission.

Accounting Policy: The Chief Accountant's Office conducted rulemaking projects involving the requirement for disclosures concerning property casualty insurance reserves, business segments and quarterly data, and requirements for consolidated financial statements. To facilitate the integrated disclosure system, the Commission amended its financial statement requirements. Because of rapidly blurring distinctions between different types of financial institutions, the Commission dealt with an increasing number of complex, new accounting problems involving financial institutions. The SEC initiated a rulemaking project calling for increased disclosures about repurchase transactions, and requested public comments on possible additional initiatives on a broad range of financial instruments.

The Commission also asked for comment on increased disclosure about the practice of companies shopping for opinions from auditors and has proposed additional proxy disclosure about independent accountants. Office staff issued Staff Accounting Bulletins to provide guidance regarding accounting practices under the last-in, first-out (LIFO) inventory method and in determining when it is appropriate to recognize losses on noncurrent marketable equity securities. The office continued to devote substantial resources toward monitoring private sector standard-setting and other self-regulatory activities. In this connection, the office participated in the oversight of 42 different rulemaking projects and the analysis of approximately 70 different accounting problems called to the attention of the Emerging Issues Task Force of the Financial Accounting Standards Board (FASB). Finally, the office increased its participation in enforcement activities involving accounting and auditing issues, providing assistance on 145 investigations.

* * *

The following discussions of 1986 and 1987 activities do not address pending Congressional revisions to the 1933 Act that would, if adopted, add registration statements for public offerings by savings and loans and banks to the review staff's workload. Moreover, if the 1934 Act is similarly amended, periodic reports, proxy statements, and tender offer material of over 900 previously-exempt financial institutions would become subject to staff review.

* * *

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

Review of Filings: Since lengthy delays in the registration process adversely affect capital formation, review priority will be assigned to 1933 Act filings. With the resources provided by the 1986 appropriation, reviews of 64% of 985 first-time and 25% of the 3,850 repeat 1933 Act filings would be completed. The staff would also review 20% of the estimated 10,400 annual reports and 16% of annual meeting proxy statements and merger filings. These levels represent an increase from 1985 of 8% in new issue reviews and a relatively stable review presence in the other filings. Approximately 80 matters would be referred to the enforcement program. The 1986 appropriation would also fund other initiatives involving increased use of microcomputers in selective review and increased staff training.

Rulemaking: The 1986 appropriation would permit the staff to complete 15 major rulemaking projects, a 18.3% increase over 1985 activity. Some of the areas for rulemaking activities include: proxy review and bank proxy activity; prospectus delivery practice; reporting burden reduction; short-swing profit; employee benefit plans; resales of unregistered securities; tender offer practices; and, electronic filing.

Legal and Interpretive Advice: The staff will issue 1,250 no-action and interpretive letters and respond to 90,000 telephone inquiries in 1986.

Regional Office Disclosure: A recent amendment broadened the availability of Form S-18 to filings of up to $7.5 million, which should result in a 7% increase in S-18 filings in 1986. The appropriation will provide the resources for the staff to review 96% of the Regulation A filings and Form S-18's.

Document Receipt and Distribution: Over 356,900 documents will be received and made available to the public in 1986. Resources would also be available for the staff to continue enhancing the Commission's fee collection through the electronic fee system which allows more timely deposit with the U.S. Treasury.

Public Information: Requests for publications received in the public reference room will increase by 5% to 19,702. With the staff provided by the 1986 appropriation and by adopting a first-in-first-out response system and utilizing inter-office communications links, FOIA requests would be answered within time frames which will minimize the Commission's risk of litigation.

Accounting Policy: Funds would be available for major rulemaking projects. These would include completion of rules regarding disclosure of business segments and quarterly data, repurchase transactions, opinion shopping and several other disclosure issues involving financial institutions and financial instruments. Staff would be available to devote greater attention to monitoring private sector standard-setting projects. This will be helpful as major FASB projects on pensions, income taxes, consolidations and cash flow will be conducted during 1986-1987. The profession's peer review program designed to increase public confidence in the performance of auditors of public companies would be closely monitored. The 1986 appropriation would provide staff resources to focus on international accounting and reporting developments. Finally, accounting personnel would continue a high level of participation in investigations involving accounting and auditing issues.

Gramm-Rudman-Hollings

Review of Filings: The review presence in three areas will be affected by Gramm-Rudman-Hollings: Full review of annual reports will be reduced from 20% to 18.4% of those received; monitoring of annual reports will be reduced from 3% to zero; and full review of annual meeting proxy statements will be reduced from 16% to 14% of those filed. The review levels for all other filings will not be affected.

Rulemaking/Legal and Interpretive Advice: No reduction will be made in these activities for 1986.

Regional Office Disclosure: Gramm-Rudman-Hollings will increase the time required to generate initial staff comment letters on Regulation A and Form S-18 filings. Staff review of S-18's will decline to 91% of those filed, a 5% reduction from appropriation levels.

Document Receipt and Distribution: The Gramm-Rudman-Hollings reduction will require the staff of the Office of Applications and Reports Services to limit full reviews of filings for SEC acceptance to 1933 Act registrations only. All others will be selectively reviewed. Moreover, the staff will peform a quality check on priority filings only. Distribution of filings will be delayed one additional day, resulting in most distributions occurring on the third or fourth day after filing, creating shorter periods for reviewers to meet statutory deadlines.

Public Information: Gramm-Rudman-Hollings will require a 7.2% reduction in staff devoted to processing FOIA requests, increasing the Commission's vulnerability to litigation for failure to respond within statutory time limits. The present average response time of 15 days will increase to at least 17 days. In addition, the Branch's ability to service Congressional requests for information will be curtailed. A projected 5% increase in such requests over 1985 levels, coupled with the reduction in staff, will increase response times from an average of 24 hours to as much as three days.

Accounting Policy: Gramm-Rudman-Hollings will reduce personnel resources for the oversight of private sector standard-setting and other self-regulatory activities and cut rulemaking initiatives relating to accounting by 7.7%.

1987 Program Request

Review of Filings: With the resources requested in 1987, the staff will review 19.1% (2,084) of the anticipated 10,900 annual reports, 64% (662) of the 1,035 initial 1933 Act filings and 25% (1,037) of repeat 1933 Act filings. Funding would also be available to review 14% (1,253) of 8,950 annual proxy statements and 75.2% of the expected tender offer, proxy contests and merger filings.

Rulemaking: The staff expects to complete 12 major rulemaking projects in 1987, securing final adoption of rule projects initiated in 1986. Increased resources will be devoted to rulemaking in the sunset review and small business areas.

Legal and Interpretive Advice: The staff will issue 1,250 no-action and interpretive letters and respond to 90,000 telephone inquiries. Resources will be available to issue three interpretive releases to curtail the volume of future requests for no-action and interpretive advice.

Regional Office Disclosure: In 1987, the number of Regulation A filings should remain constant at 180. The increased availability of Form S-18 should produce a slight increase in these filings. The staff will review 173 or 96% of the 180 Regulation A filings and 655 or 96% of the S-18 filings. The time required to generate comment letters will be 24 days.

Document Receipt and Distribution: Resources will be available for the OARS staff to handle the increased number of documents filed electronically in 1987. In all, OARS personnel will receive 390,000 documents and make them available to the public. Acceptance and quality control reviews will be enhanced. Greater use of the electronic fee system will result in more timely deposit of fees with the U.S. Treasury.

Public Information: In 1987, the 5% increase in requests for information received in the public reference rooms will be partially offset by Edgar. With Edgar filings, requestors will directly access data through computer terminals. Therefore, the resources requested for public reference will enable the staff to continue to meet current response levels in spite of increasing volume of requests. The first-in-first-out response system and additional inter-office communications links will maintain response time for FOIA requests within required time frames and minimize the Commission's risk of litigation.

Accounting Policy: The 1987 request would permit the staff to complete 14 rulemaking projects and staff bulletins. The staff would increase to 644 the number of private sector standard-setting and other self-regulatory projects monitored. This is important as major projects on income taxes, consolidations, stock compensation and cash flow will be in progress. The staff will maintain strong oversight of the peer review program, closely monitor international accounting and reporting developments and continue its involvement with the Emerging Issues Task Force.

Full Disclosure

Workload Data

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
I. Review of Filings:								
1933 Act Registration Statements New Issuers 1/								
Filed	965		985		985		1,035	
Reviewed 2/	581	42.4	630	45.7	630	45.7	662	48.0
Amended Pursuant to Comments	486		527		527		553	
Not Reviewed 3/	384 4/		355		355		373	
		42.4		45.7		45.7		48.0
Repeat Issuers 5/								
Filed	3,670		3,850		3,850		4,150	
Reviewed	950	51.3	962	51.8	962	51.8	1,037	55.8
Monitored 6/	415	1.9	423	1.9	423	1.9	0	
Amended Pursuant to Comments	439		444		444		479	
Not Reviewed or Monitored	2,305		2,465		2,465		3,113	
		53.2		53.7		53.7		55.8

1/ New Issuers: Issuers which are not required to file periodic reports with the Commission, primarily because they have not previously registered an issue of securities under the 1933 Act. Certain 1933 Act initial public offerings (IPO's) are not reviewed. They include limited partnership offerings by a general partner who has had one similar 1933 Act filing declared effective and filings with respect to the conversion of a bank to a bankholding company where the bank has previously filed its reports with another federal agency.

2/ A review involves an in-depth examination of the accounting, financial and legal aspects of a filing and all amendments made prior to date of review. It also involves appropriate research, conferences with representatives of the issuer and underwriters, and examination of supplemental information.

3/ In most cases, a preliminary screening of the filing is made to determine whether a review is appropriate.

4/ This figure includes 215 limited partnership offerings and 169 bank and other corporate conversion filings which are, in substance, repeat filings and would not benefit from a full review.

5/ Repeat Issuers: 1933 Act filings made during periods covering securities registered pursuant to stock option and other employee and shareholder benefit plans are excluded from this category. For 1985, 1986, and 1987 the number of such filings was, or is estimated to be, 2,669, 2,775 and 2,880, respectively.

6/ Monitoring is a directed review for specified disclosure in a document. Monitoring can take place either before or after an effective date of a 1933 Act filing or the disposition date of a 1934 Act filing.

I. Review of Filings (continued):	FY 1985 Actual Work-load	FY 1985 Actual Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Work-load	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Appropriation Estimate Work-load	FY 1986 Appropriation Estimate Staff Years	FY 1987 Estimate Work-load	FY 1987 Estimate Staff Years
1934 Act Registration Statements								
New Issuers								
Filed	182		195		195		200	
Reviewed	140	8.6	146	8.9	146	8.9	150	9.1
Amended Pursuant to Comments	93		97		97		100	
Not Reviewed	42		49		49		50	
		8.6		8.9		8.9		9.1
Repeat Issuers								
Filed	1,501		1,525		1,525		1,550	
Monitored	681	.2	610	.2	610	.2	610	.2
Not Reviewed or Monitored	820		915		915		940	
		.2		.2		.2		.2
1934 Act Periodic Reports								
Annual Reports								
Filed	9,847		10,400		10,400		10,900	
Reviewed	2,064 1/	49.4	1,913	45.8	2,080	49.8	2,084	49.9
Monitored	354	.6	0		312	.5	312	.5
Amended Pursuant to Comments	189		176		191		120	
Not Reviewed or Monitored	7,358		8,487		8,008		8,504	
		50.0		45.8		50.3		50.4
Quarterly & Current Reports								
Filed	39,044		40,844		40,844		41,644	
Reviewed	1,955	2.7	2,042	2.7	2,042	2.7	1,500	2.3
Monitored	9,728	1.0	9,802	1.0	9,802	1.0	9,802	1.0
Amended Pursuant to Comments	14		15		15		11	
Not Reviewed or Monitored	27,361		29,000		29,000		30,342	
		3.7		3.7		3.7		3.3
1934 Act Proxy Material								
Annual Meeting Proxies								
Filed	8,424		8,723		8,723		8,950	
Reviewed	1,683	24.9	1,220	17.6	1,396	20.0	1,253	18.1
Monitored	360	.4	0		0		0	
Amended Pursuant to Comments	734		532		609		546	
Not Reviewed or Monitored	6,381		7,503		7,327		7,697	
		25.3		17.6		20.0		18.1
Going Private Proxies								
Filed	183		191		191		195	
Reviewed	183	2.7	191	2.8	191	2.8	195	2.8
Amended Pursuant to Comments	71		74		74		76	
Not Reviewed	0		0		0		0	
		2.7		2.8		2.8		2.8
Merger Proxies								
Filed	329		335		335		345	
Reviewed	255	11.2	257	11.2	257	11.2	265	11.6
Amended Pursuant to Comments	117		118		118		122	
Not Reviewed	74		78		78		80	
		11.2		11.2		11.2		11.6

1/ During fiscal year 1985, 71 annual reports were reviewed during a paid overtime project, therefore, 2,135 were actually reviewed.

I. Review of Filings (continued):	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Proxy Contests								
Filed	86		88		88		88	
Reviewed	86	4.5	88	4.6	88	4.6	88	4.6
Amended Pursuant to Comments	49		50		50		50	
Not Reviewed	0		0		0		0	
		4.5		4.6		4.6		4.6
1934 Act Schedules								
Tender Offer Filings								
Filed	532		545		545		550	
Reviewed	369	3.6	376	3.6	376	3.6	386	3.7
Monitored	2	.0	0		0		0	
Amended Pursuant to Comments	44		45		45		46	
Not Reviewed or Monitored	161		169		169		164	
		3.6		3.6		3.6		3.7
Going Private Schedules								
Filed	242		245		245		260	
Reviewed	190	1.3	183	1.2	183	1.2	198	1.3
Monitored	3	.0	0		0		0	
Not Reviewed or Monitored	49		62		62		62	
		1.3		1.2		1.2		1.3
Acquisition Statements								
Filed	5,611		5,645		5,645		5,650	
Reviewed	24	.1	50	.2	50	.2	50	.2
Monitored 1/	40	.0	80	.1	80	.1	80	.1
Not Reviewed or Monitored	5,547		5,515		5,515		5,520	
		.1		.3		.3		.3
Total Staff Years		206.8		199.3		206.2		209.2
Review of Filings:								
Other Activities								
Quality Control/Program Development		1.5		1.5		1.5		2.0
Staff Training		2.9		4.0		4.0		4.5
Planning & Coordination		12.2		10.5		10.5		10.5
Edgar Coordination		2.0		2.0		2.0		1.0
Exemptive Issues		1.6		1.6		1.6		1.6
Trust Indenture		2.9		2.0		2.0		2.0
Securities Bar Relations		1.5		1.0		1.0		1.0
Total Staff Years		24.6		22.6		22.6		22.6
Transfer from Regional Office								3.0 2/
Cumulative Staff Years		231.4		221.9		228.8		234.8

1/ These filings are monitored in connection with reviews of Tender Offers.

2/ These three staff positions will be transferred from the Washington (Arlington) Regional Office to handle regional office disclosure requirements among other activities.

I. Review of Filings (continued):

Amendments and Impact - 1985

Selected Filings 1/	Number Filed	Number Reviewed	Number Amended	Value of Affected Filings 2/ (000)
1933 Act New Issuer Registration Statements	965	581	486	$27,964,450
1933 Act Repeat Issuer Registration Statements	3,670	950	439	$26,441,087
1934 Act New Issuer Registration Statements	182	140	[illegible]3	8,190,776
1934 Act Annual Reports	9,847	2,135	189	11,315,391
Annual Meeting Proxies	8,424	1,683	734	3/
Proxy Contests	86	86	49	37,663,335
Merger Proxies	329	255	117	18,809,424
Going Private Proxies	183	183	71	4,251,273
Tender Offer Filings	532	369	44	11,402,022

II. Rulemaking:

Activity 4/	FY 1985 Actual Work-load	FY 1985 Actual Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Work-load	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Appropriation Estimate Work-load	FY 1986 Appropriation Estimate Staff Years	FY 1987 Estimate Work-load	FY 1987 Estimate Staff Years
1. Proxy Program	4.0	2.9	3.0	2.5	3.0	2.5	1.0	1.0
2. Integration	.2	.2	.5	.5	.5	.5	.5	.5
3. Small Business	3.0	1.2	2.5	2.5	2.5	2.5	3.0	3.1
4. Response to Need	2.0	2.6	2.0	1.5	2.0	1.5	2.0	1.7
5. Sunset Review	1.5	1.5	3.0	2.5	3.0	2.5	3.5	3.0
6. Tender Offers	2.0	1.3	2.0	1.6	2.0	1.6	2.0	1.8
7. Edgar	.4	.4	2.5	3.0	2.5	3.0		
8. Program and Coordination		1.0		1.0		1.0		1.0
	13.1	11.1	15.5	15.1	15.5	15.1	12.0	12.1

1/ This table includes only selected filings; it omits filings such as Forms 8-K and 10-Q.

2/ This quantified measure of the impact of the review process is derived from the net worth of the company (proxy contests), float (1934 Act reports and merger proxies), offering amount (1933 Act registration statements), transaction value (going private transactions), total market value of the securities being registered (1934 Act registration statements), or dollar value of tender offer, involved in selected filings that were materially amended as a result of staff comments.

3/ The impact on this type of filing is not given because no satisfactory quantification method has been found.

4/ This includes projects meeting the Regulatory Flexibility Act and Paperwork Reduction Act objectives.

III. Legal Advice and Public Information

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
Activity	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
General Advice/Coordination								
Telephone Calls	93,640	3.6	90,000	4.3	90,000	4.3	90,000	4.3
FOIA, Confidential Treatment & Related Matters	287	.5	275	.5	275	.5	275	.5
Staff Advice & Coordination		2.1		2.1		2.1		2.1
		6.2		6.9		6.9		6.9
Written Responses								
No-Action/Interp Letters	1,200	10.4	1,250	8.1	1,250	8.1	1,250	8.1
Exemptive Orders	29	.4	35	.5	35	.5	35	.5
Correspondence	1,627	.9	1,600	1.3	1,600	1.3	1,600	1.3
		11.7		9.9		9.9		9.9
Interpretive Releases								
Lengthy	0	.0	1	.3	1	.3	1	.3
Short	0	.0	2	.4	2	.4	2	.4
		0		.7		.7		.7
Program and Coordination		1.0		1.0		1.0		1.0
Total Staff Years		18.9		18.5		18.5		18.5

IV. Regional Office Disclosure

	FY 1985		FY 1986 Gramm-Rudman Hollings		FY 1986 Appropriation		FY 1987	
	Actual		Estimate		Estimate		Estimate	
Regulation A	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Filed	168		180		180		180	
Reviewed 1/	166	10.3	173	9.8	173	9.8	173	9.5
Not Reviewed 2/	2		7		7		7	
Form S-18								
Filed	622		665		665		684	
Reviewed 1/	617	33.2	605	31.3	640	33.1	655	30.4
Not Reviewed 2/	5		60		25		29	
All Other Filing 3/ and Technical Assistance	4	5.8	4	5.8	4	5.8	4	5.8
Public Reference and Other Related Activities		10.2		10.2		10.2		10.2
Total Staff Years		59.5		57.1		58.9		55.9 4/
Turn-around Times 5/ (days)								
Regulation A		15.7		23		22		24
Form S-18		18.1		23		22		24

1/ A review involves an in-depth examination of the accounting, financial and legal aspects of a filing. The review process encompasses the examination of the initial filing and all amendments made prior to date of review completion to ensure compliance with the disclosure requirements. It also involves appropriate research, conferences with representatives of the issuer and underwriters, and examination of supplemental information.

2/ Estimated number pending review at the end of the year.

3/ Includes Regulation F and Rule 252(g) applications.

4/ With the closing of the Washington (Arlington) Regional Office, three staff years will be shifted to the Division of Corporation Finance to accommodate regional office disclosure requirements among other activities. The workload estimates in this table continue to account for all regional office disclosure activity.

5/ From receipt to first comment letter.

V. Document Receipt and Distribution:

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
1933 Act Filings	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Registration Statements	7,231		7,900		7,900		8,700	
Amendments to Registration Statements	9,434		10,400		10,400		11,400	
1934 Act Filings								
Registration Statements	1,698		1,900		1,900		2,100	
Amendments to Registration Statements	478		500		500		500	
Preliminary Proxy Statements	10,339		11,400		11,400		12,500	
Annual Reports - 10-K, 20-F, 11-K, etc.	10,971		12,100		12,100		13,300	
Amendments	2,173		2,400		2,400		2,600	
Quarterly Reports - 10-Q	29,556		32,500		32,500		35,700	
Amendments	1,374		1,500		1,500		1,600	
Current Reports - 8-K, 6-K	10,769		11,800		11,800		13,000	
Amendments	1,169		1,300		1,300		1,400	
Forms 3, 4 and Amendments	114,758		126,000		126,000		137,000	
Form 144 and Amendments	32,016		35,200		35,200		38,700	
1933 and 1934 Act - Miscellaneous Filings								
Documents	79,652		87,600		87,600		96,400	
Amendments	13,055		14,400		14,400		15,800	
Total Filings	324,673		356,900		356,900		390,700	
Microfiche Processed								
Received & Filed	616,054		708,500		708,500		814,800	
Requests Received & Processed	22,936		26,400		26,400		30,400	
Microfiche Reproduced	107,768		123,900		123,900		142,500	
Staff Years By Function								
Activity								
Receipt & Distribution		14.2		13.9		14.3		15.3
Computer Update		13.6		13.7		13.7		12.7
Records Maintenance		15.6		15.5		15.5		15.5
Quality Assurance		6.1		5.5		6.0		6.0
Examination of Filings		12.8		11.6		12.6		12.6
Total Staff Years		62.3		60.2		62.1		62.1

VI. Public Information

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
Activity	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Public Information								
Public Reference								
Documents received and filed	*327,569		343,945		343,945		361,142	
Microfiche received and filed	289,545		304,022		304,022		319,223	
Visitors	17,383		18,252		18,252		19,164	
Requests by letters	7,062		7,415		7,415		7,786	
Requests for publications	18,764		19,702		19,702		20,687	
Certifications	405		425		425		446	
Telephone inquiries	98,775		103,713		103,713		108,900	
		16.3		15.5		15.5		15.5
FOIA								
FOIA Requests	1,710		1,795		1,795		1,885	
FOIA Appeals	77		80		83		84	
Privacy Act Requests	38		40		40		42	
Privacy Act Appeals	0		0		0		0	
Government in the Sunshine Act Requests	16		16		16		17	
Confidential Treatment Requests	2,282		2,396		2,396		2,515	
Confidential Treatment Appeals	12		14		12		12	
Congressional Requests	1,822		1,913		1,913		2,009	
		11.6		10.3		11.1		11.1
Total Staff Years		27.9		25.8		26.6		26.6

* Paper copies of documents for which there is no immediate demand are no longer received in Public Reference. However, those documents are available to the public when microfiche copies are produced.

VII. Accounting Policy:

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Accounting Policy								
Rule amendments & staff bulletins	14		13		14		14	
Oversight of private sector rulemaking & registrant contacts	640		630		642		644	
Participation in Investigations	145		145		145		150	
Total Staff Years		18.5		17.9		18.5		18.5

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Electronic Filing

Program Summary

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
Organizations	Staff Years	Cost (000)	Staff Years	Cost (000)	Staff Years	Cost (000)	Staff Years	Cost (000)
Corporation Finance	13.0		29.0		30.0		30.0	
Information Systems Management	3.0		3.0		3.0		3.0	
Applications and Reports Services	2.0		2.0		2.0		5.0	
Sub-Total, Salaries and Benefits 1/	18.0	$484	34.0	$1,025	35.0	$1,055	38.0	$1,161
Non-Personnel Expenses		5,860		5,759		6,034		5,192
Total Program Cost 1/		$6,344		$6,784		$7,089		$6,353

1/ Included in Full Disclosure Program Summary

The SEC's electronic filing project, Edgar, is designed to automate the filing, processing and dissemination of full disclosure filings. Electronic receipt will improve the speed and effectiveness of the SEC's review of filings and ensure rapid, timely dissemination of disclosure information to investors and the financial markets anywhere in the country.

During 1985, the basic processing capabilities of the Edgar pilot project in Phase I were augmented with the enhancements in Phase II. Major enhancements included adding capability to search the entire data base using key words, improving communication with filers through electronic mail, and providing storage for all review material in an electronic file folder. These additions markedly improved the ability of the system to assist the SEC review staff.

In 1986, the SEC will proceed with the final phase of the pilot system enhancements. The most significant of these will be an experiment to test a standardized financial statement for periodic reports that will permit the identification and manipulation of specific financial entries. Other enhancements will include automatic notification of registrants that electronic submissions have been accepted or rejected and the reasons for rejection. The Edgar pilot will begin receiving time-sensitive filings pertaining to proxy contests and tender offers. Moreover, the system will begin accepting filings from volunteer investment companies. Finally, the Commission will also release its Request for Proposals (RFP) to solicit bids for the operational Edgar system.

Gramm-Rudman-Hollings: The Gramm-Rudman-Hollings reduction will be absorbed without significant consequences.

The funding requested for 1987 is essential for effecting conversion to the operational system. Appropriations are required to cover the contractor's expenses associated with constructing the agency's internal processing system. Funding at approximately this level will be required for the initial seven years of the operational contract, over which period the total cost of the internal processing system will be amortized. This approach is designed to achieve a balance in which beneficiaries of the system each bear appropriate costs for construction and operation. Also, funding is required for SEC staff to assist filers with conversion, train Commission review personnel, and complete required rulemaking.

Electronic Filing

Mission

The SEC's electronic filing project, called Edgar, is designed to automate the filing, processing and dissemination of full disclosure filings. The pilot test program, being conducted through fiscal 1986, permits publicly-held companies to transmit their filings to the Commission directly over telephone lines or by sending a magnetic tape or word processing diskette to SEC headquarters in Washington, D.C. Receipt and analysis of the filing takes place in an automated, paperless environment. Eventually, this elimination of paper will lead to shortened review times and earlier effective dates for securities issues, thereby adding billions of dollars to the investment capital in circulation. Thus, the liquidity of the markets for the securities of small, as well as large companies will be broadened. Linking the states and self-regulatory organizations, such as the exchanges and the National Association of Securities Dealers (NASD), with Edgar will bring about faster access to the capital markets and one-step filing for issuers of new securities.

Dissemination offers the SEC the greatest promise for an electronic system. The capability for millions of individual investors to access SEC data through home computers forms the primary impetus for Edgar. The realization of widespread, informed participation by greatly increased numbers of individual investors will broaden the market's base of shareholders, thereby improving its stability and efficiency. During the initial phases of the pilot test, electronic dissemination has been made available in the Commission's public reference rooms in Washington, D.C., Chicago, and New York.

Program Environment

The SEC annually receives and acts upon seven million pages of information which are filed in the form of over 200,000 reports and amendments. Filings vary in type, length, and mandatory submission date. Because of SEC deadlines, about 30,000 of the over 200,000 annual filings are made during 14 days spread throughout the year, now requiring intensive effort by Commission employees to process these peak loads without long delays. The average length of the reports filed with the SEC is 34 pages. The longest reports are 1933 Act registrations (made when a firm plans to issue securities) that average 165 pages. The highest volume filing is the Form 10-Q that companies file quarterly to report their business activities. The Commission received over 29,000 in 1985, each averaging 25 pages. These Form 10-Q's are consolidated into the annual Form 10-K report that provides an important, but currently under-utilized, data base regarding the operations of over 10,000 publicly-held companies.

Most of these documents are now received by the SEC in paper form. To meet its objective of making these forms available to the public, the SEC has been using a private contractor to microfiche public filings and to sell the information to the public at rates regulated by the Commission. In addition to ensuring that its filing information is widely disseminated, the SEC receives sets of the filings on microfiche for its own working and historical files at no charge. While this system has worked well, computer technology will increase the speed, accuracy, and availability of this information, delivering benefits to investors and financial markets over the years that far exceed the initial cost of establishing the system.

1985 Program Evaluation

Fiscal year 1985 was the first full year of pilot operation. The thrust of the year's activity was a threefold effort to (1) provide a stable, reliable environment for volunteer filers, (2) enhance the capabilities of the system for the accountants and analysts reviewing filings, and (3) experiment with technologies and approaches which might prove useful in the future operational system. All three objectives were satisfactorily met.

The pilot system performed extremely well during the year. The system was up and serving users in excess of 99 percent of available time. During 1985, over 1,608 Edgar filings from 156 companies were received and processed. Three states (Georgia, Wisconsin, and California) began participating in the pilot. Utility systems subject to the Public Utility Holding Company Act were given access to electronic filing in late 1985. Of the 12 systems regulated, four began filing on Edgar. The remaining systems will become active Edgar filers in 1986. As a result of a high level of interest among investment companies and unit investment trusts, developmental activities were completed to expand the pilot to include reports and full disclosure filings reviewed and processed by the Division of Investment Management beginning in 1986. This will greatly expand the number of companies involved in Edgar.

With respect to enhancing the system, a wide range of new functions and capabilities were added during the year without disruption to ongoing operations. These enhancements were designed to make the task of reviewing corporate filings easier. Among the most significant additions were:

- Keyword search. An individual filing or the entire Edgar data base can be quickly and easily searched for the existence of such items as specific phrases (e.g., "qualified opinion"), a name, a company, or a location.
- Electronic mail. Analysts can correspond with filers, and filers can reply via electronic mail. Communications which previously required a week and a half can be accomplished within minutes.
- Electronic File Folder. For each filing reviewed, all associated correspondence, news clips or LEXIS searches will be stored electronically, mirroring the capability of a paper file folder.

Other enhancements included the development of smooth scrolling for the review of filings and the provision of workstation access to external data bases.

In an effort to identify technologies which may improve the future operational system, the staff completed experiments on a software package which filers may use in the near future to encrypt any document to provide extra protection in transmission. Two other experimental efforts involved the use of artificial intelligence to analyze text and data contained in the filings.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

With the funding provided by the 1986 appropriation, the staff will move to accomplish three objectives. First, the enhancements planned for the pilot system in Phase III will be completed or tested. Second, the pilot system coverage will be enhanced. Third, the Request for Proposals (RFP) for the operational Edgar system will be released and the majority of the competitive process completed to select a final contractor to construct and operate this system.

The Phase III enhancements to the Edgar pilot include:

- 132 Character Display. The SEC will experiment with an approach that makes it possible for analysts to view the entire width of financial tables without left-right scrolling.

- Synonym Searching. Text searches will be improved by adding a series of synonyms. For example if a search is executed for "attorney," the system will identify the locations of "lawyer" and "counsel."

- Enhanced Screening Sheet Facility. The screening sheet and other selective review tools will be enhanced to make selective review as flexible as possible.

- Automated Registrant Notification. Registrants will be notified automatically via electronic mail of the filings' status with respect to invalid receipts, rejections following initial review, and acceptances.

- Rules and Regulations. The SEC rules and regulations will be stored on a separate, searchable data base within the Edgar computer and will be accessible from Commission workstations.

- Electronic Tickler Facility. Review staff will be able to identify future events for which they would like to receive a notification message on their In-Box.

Moreover, experiments will be initiated which will test the operational utility of various methods of tagging and analyzing filing data more effectively. Two experiments will be conducted to improve the system's ability to extract and manipulate specific numerical entries in financial statements. In one experiment, filers will submit an additional document which will consist of a standardized financial statement for either quarterly or annual data. Using this standardized data, the system will automatically compute several ratios and store them in the historical company file. The second experiment will permit reviewers to quickly reach certain financial documents and then move the data to a spreadsheet on a personal computer, thereby allowing the reviewer to manipulate the data as needed.

In 1986, both the variety of electronic filings and the number of system users will expand. In April 1986, proxy contests and tender offers will be added to the list of filings accepted by Edgar. These time-sensitive documents will be reviewed and accepted electronically and then indexed and retained under the name of the subject company. The NASD will be given two types of access to Edgar.

The NASD will receive a terminal through which Edgar filings can be reviewed by internal staff. In addition, the text of all NASD filings will be sent via tape to establish a specific data base of NASD filings.

The pilot branch established in the Division of Investment Management will begin receiving registration statements, post-effective amendments and proxies from 10 volunteer investment companies. The full range of filings from the volunteer companies will be phased in throughout the year.

The transition from pilot to full scale operational system will proceed according to the following schedule:

March 17, 1986	Request for Proposals (RFP) Released
July 17, 1986	RFP closes; Bids Due
October 17, 1986	Evaluation Completed; Contractor Selected
May 1, 1987	Operational System Initiated

Gramm-Rudman-Hollings

Gramm-Rudman-Hollings will reduce slightly the SEC's in-house research and development staff. There will be no changes in the schedule for the operational system. Similarly, all planned functional specifications will be maintained.

1987 Program Request

Operational Edgar will be financed under a cost-sharing contract. The SEC, through the funds requested in 1987 and beyond, will finance the costs associated with its internal processing. The contractor will assume responsibility for the remaining receipt and dissemination costs. Contractor investment will be recovered through the sale of SEC data.

The 1987 funding request is critical for the conversion to the operational system. Appropriations are required to cover the contractor's expenses associated with constructing the agency's internal processing system. This funding level will be required for seven years, over which period the total cost of the SEC's internal system will be amortized.

Moreover, SEC staff are needed to train Commission staff on the review and processing system, assist filers in the transition to electronic filing, complete required rulemaking and continue research and development efforts. Most of the staff requested for the Division of Corporation Finance will provide training required for the conversion to the operational system. Other division staff will be active in preparing the many new rules which will have to be promulgated before full-scale electronic filing can become a reality. The remaining staff will assist the contractor in research and the development of the user manuals so important to both issuers and SEC staff.

This request will also provide staff for the Offices of Applications and Reports Services and Information Systems Management to give technical assistance to filers as they convert to the automated system. Experience with the Edgar pilot indicates a high level of assistance will be essential for smooth user transition to automated filings. The staff requested will also train current SEC staff to assist electronic filers.

Prevention and Suppression of Fraud

Program Summary

Organizations	FY 1985 Actual Staff Years	FY 1985 Actual Cost (000)	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Cost (000)	FY 1986 Appropriation Estimate Staff Years	FY 1986 Appropriation Estimate Cost (000)	FY 1987 Estimate Staff Years	FY 1987 Estimate Cost (000)
Enforcement	178.3		181.3		185.9		203.9	
Applications and Reports Services	10.1		10.8		11.2		11.2	
Consumer Affairs and Information Services	11.0		10.8		11.1		11.1	
Regional Offices	409.6		406.4		419.1		401.1	
Sub-Total, Salaries and Benefits	609.0	$24,922	609.3	$25,277	627.3	$26,110	627.3	$26,352
Non-Personnel Expenses		8,507		8,096		8,758		8,432
Total Program Costs		$33,429		$33,373		$34,868		$34,784

The Prevention and Suppression of Fraud Program ensures investor confidence in the stability and integrity of the nation's securities markets by preventing the illegal distribution of securities, fraud and manipulation in the purchase and sale of securities, and other conduct illegal under the federal securities laws. Investor confidence is crucial to capital formation, a cornerstone of the nation's economy. The rapid growth of the securities industry since 1979 has increased the demands placed upon this program, which accounts for approximately one-third of the Commission's total resources.

During 1985, the Commission continued to enforce the federal securities laws aggressively. The Commission filed 143 civil injunctive actions in 1985, naming 385 defendants, and instituted 122 administrative proceedings, naming 199 respondents. The Commission prosecuted 3 civil contempt proceedings, and published one report of investigation pursuant to Section 21(a) of the Securities Exchange Act of 1934.

In 1986, the Commission will attempt to obtain more severe sanctions against persons and entities who engage in egregious violations of the securities laws, particularly where such persons and entities are repeat violators. The 1986 appropriation would provide funding for the SEC to open 350 investigations. Moreover, the staff would initiate 120 administrative proceedings, 60 criminal actions and 150 civil actions.

Gramm-Rudman-Hollings: The reductions imposed by Gramm-Rudman-Hollings will generate a 3% decline in investigative activities. Similarly, the number of enforcement proceedings will drop 3%. The staff will open 116 administrative proceedings, 58 criminal actions and 146 civil proceedings.

The 1987 request would provide funding for the staff to address the continuing rise in investor complaints. Some 350 investigations would be undertaken. Resources would allow the staff to open 120 administrative proceedings, 60 criminal actions and 150 civil proceedings.

Prevention and Suppression of Fraud

Mission

The Prevention and Suppression of Fraud Program protects the investing public by inhibiting the illegal distribution of securities, fraud and manipulation in the purchase and sale of securities, and other conduct that violates the federal securities laws. The program staff analyzes intelligence, conducts investigations, and prosecutes enforcement proceedings to preserve the integrity of the securities markets and maintain the investor confidence that is a prerequisite to capital formation.

The program's legislative mandates are the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. Each contains explicit authority for the Commission to conduct investigations and, where unlawful conduct or noncompliance is discovered, to bring enforcement actions in a federal court, institute administrative proceedings before the Commission, or refer the matter to the Attorney General for criminal prosecution. The mission is carried out in three phases: intelligence analysis, investigations, and proceedings.

Intelligence Analysis: The first phase of enforcement work consists of the evaluation of information that may indicate past or imminent violations of the federal securities laws. This information is acquired from diverse sources. For example, investigations pending at the close of 1985 were based on information from the following sources: 1/

Public Complaints	26%	Other SEC Investigations	7%
SEC Examination Program	16%	State/Local Agencies	7%
Informants	13%	Other Federal Agencies	5%
News Media	10%	Issuer Filings	5%
Self-Regulatory Organizations	10%	SEC Market Surveillance	5%
Other SEC Divisions	8%		

Market activity is monitored by special surveillance units that make inquiries into unusual trading patterns. Public complaints, unusual market movements, and leads from other sources are evaluated to determine whether an inquiry should be initiated. If more data is necessary to decide whether an investigation should be made, a Matter Under Inquiry (MUI) may be opened. The staff may spend up to 80 hours on a MUI before a decision to investigate is made.

Investigations: An investigation is opened when a matter warrants further resources to determine whether a violation exists and what enforcement action is needed. Where witnesses and others are willing to cooperate on a voluntary basis, an informal investigation may be conducted. If it appears necessary to compel testimony and the production of documents, the Commission may order a formal investigation, authorizing the staff to employ subpoenas to obtain evidence.

1/ Since a case may emanate from more than one source, the sum of the percentages exceeds 100%.

Investigations vary tremendously in terms of their scope and complexity. Thus, the number of investigations does not reflect qualitative aspects of the SEC's caseload. An investigation may consist of a routine inquiry into the conduct of a single person or regulated entity or a detailed examination of a complex scheme involving a large number of entities and individuals. Moreover, investigations may frequently involve novel, complex, and difficult issues of fact or law. In selecting matters for investigation, the staff considers the magnitude of the undertaking, as well as intangible factors such as the deterrent value of a particular case. An analysis of investigations pending at the end of 1985 reveals the following percentages of cases in the most significant subject classifications: 1/

Fraud in Offer/Sale/Purchase	68%	Manipulation of Stock Price	17%
Failure to Disclose	49%	Insider Trading	17%
Broker-Dealer Violations	24%	Books & Records Problems of Regulated Entities	15%
Unregistered Offering	23%	Accounting Problems	15%
False Filing	22%	Financial Problems	15%
Investment Adviser/Company Violations	17%	Breach of Fiduciary Relationship	14%

Proceedings: Depending on the results of an investigation, the Commission may authorize the staff to commence a civil injunctive action in a United States district court, institute an administrative proceeding before an administrative law judge, or refer the matter to the Department of Justice for criminal prosecution. Matters may also be referred to state or local authorities or self-regulatory organizations.

Decisions regarding the particular enforcement action to take in a case are based on a number of considerations and legal judgments. Civil injunctive actions are undertaken to obtain court orders enjoining existing or imminent violations of the federal securities laws and to obtain other forms of equitable relief to protect the investing public. When appropriate, a freeze of assets or the appointment of a receiver or trustee is sought to conserve assets or funds in which investors have an interest.

The Commission institutes administrative proceedings against regulated entities to determine whether it is in the public interest to suspend or revoke the registration that they require to engage in business. The Commission may also institute administrative proceedings against persons associated with regulated entities. Remedies for misconduct by individuals include censure, limitations on activities, suspension for up to twelve months, or a bar from participation in the securities industry.

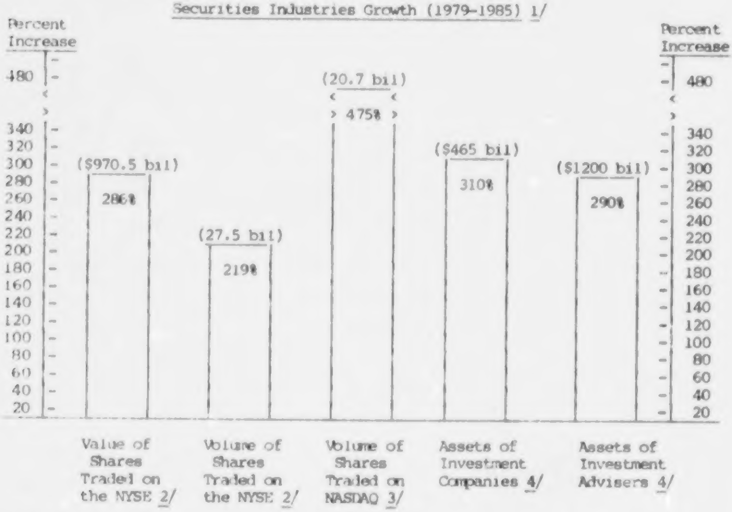
Commission investigations may result in indictments and criminal prosecutions. While authority for conducting criminal proceedings lies with the Department of Justice, the Commission's staff provides assistance to the Department in developing unusual cases and may participate more directly as temporary special prosecutors.

1/ As a case may involve more than one violation classification, the sum of percentages exceeds 100%.

Program Environment

The securities marketplace is undergoing a dramatic transformation. With market growth, convergence within the financial services industry and the advent of global securities markets, the Commission's enforcement program is being confronted by increasing demands. As illustrated below, the securities industry has grown rapidly in recent years.

Securities Industries Growth (1979-1985) 1/



This growth has been accompanied by a significant increase in the number of market participants subject to Commission regulation. Effective broker-dealer registrations rose to 11,404 by the end of fiscal 1985, an increase of 82% from 1979. During the same period, the number of registered investment advisers

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1/ Figures represent calendar year data except as noted; actual 1985 figures in parentheses.

2/ Source: New York Stock Exchange.

3/ Source: National Association of Securities Dealers' Automated Quotations System.

4/ Data as of September 30, 1979 and September 30, 1985.

grew 96% to 11,100, and the number of investment companies rose 62% to 2,450. Industry growth has also been accompanied by increases in the indices of potential fraud. Since 1979, complaints and inquiries received annually by the SEC have increased 97% to 31,221 and complaints received by the NASD have jumped 317% to 3,414 annually. Moreover, as complex financial instruments proliferate and markets cross national boundaries, the pursuit and deterrence of fraud becomes increasingly difficult.

1985 Program Evaluation

The Commission conducted a vigorous enforcement program to prevent and redress violations of the federal securities laws. The Commission brought a total of 269 enforcement actions during 1985, including 143 civil injunctive actions. Some 385 defendants were named in connection with these actions.

In addition to injunctions prohibiting imminent or repeated violations, the staff obtained court orders during 1985 requiring defendants to divest themselves of illicit profits amounting to more than $18 million, either as disgorgement or restitution to defrauded investors. This represents a 50% increase over 1984. Emergency actions initiated by the Commission resulted in freeze orders to protect $89 million in investors' assets pending judicial disposition, an increase of over 3 times the 1984 level.

The staff initiated 122 administrative proceedings against a total of 199 respondents. The staff also prosecuted three civil contempt actions and published one report of investigation.

The Commission continued to assign high priority to fraud by reporting companies, and to focus greater attention on the adequacy of corporate financial information in registration statements and periodic reports. Typical financial disclosure cases involved improper valuation of assets or liabilities, improper recognition of revenue or expenses, or failure to provide adequate disclosure concerning the ability of a corporation to meet its obligations. These cases are often complex and require more resources than other types of cases. The staff brought 42 injunctive actions and administrative proceedings involving financial disclosure issues during 1985. The Commission also brought 14 cases alleging misconduct on the part of accounting firms or their partners or employees during 1985, including 2 of the financial disclosure cases noted above.

The largest number of enforcement cases involved regulated entities such as broker-dealers, investment advisers and investment companies. As the securities markets grow and more individuals come in contact with the financial services industry, it is increasingly important to ensure the integrity and fairness of the entities that participate in the industry. The Commission brought a total of 120 enforcement proceedings involving entities which it regulates during 1985. Of these cases, 91 were brought against broker-dealers or persons associated with broker-dealers. The majority of these cases involve violations of the net capital and customer reserve provisions, books and records violations, and fraudulent sales practices.

Cases involving violations by issuers and other persons in connection with securities offerings also accounted for a large number of the Commission's enforcement proceedings. The SEC opened 49 of these cases during 1985. These cases involved the failure to comply with registration requirements as well as violations of the antifraud provisions.

The purchase or sale of securities on the basis of material nonpublic information -- "insider trading" -- undermines the expectation of fairness that serves as the basis for public confidence in our markets. Accordingly, the Commission continued to emphasize insider trading by bringing 20 cases in 1985. Since the 1984 Insider Trading Sanctions Act the Commission may seek the imposition of a civil penalty of up to three times the profit gained or loss avoided by any person who buys or sells securities while in possession of material nonpublic information. The Commission filed two injunctive actions seeking the imposition of civil penalties during 1985. The defendants in those actions consented to penalties amounting to over $158,000.

Emergency situations often arise that require an immediate response by the Commission staff. For example, on five separate occasions during 1985, the staff brought emergency actions to prohibit further transactions by firms with large losses stemming from government securities purchase and repurchase agreements. In one of those actions, the Commission obtained a court order freezing funds amounting to $26 million, pending appropriate judicial disposition.

Continued emphasis was given to assisting the Department of Justice, state and local authorities, and self-regulatory organizations in law enforcement efforts. During 1985, an estimated 24,500 staff hours were committed to assisting other law enforcement agencies with criminal prosecutions. There were 123 grants of access to investigative files to the Department of Justice and other criminal prosecutorial authorities. The staff provided substantial assistance to these authorities in obtaining 40 indictments and 62 convictions. The Commission also made 159 grants of access to federal, state and local authorities and self-regulatory organizations to assist non-criminal law enforcement efforts, an increase of more than 35% over 1984.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

In 1986, the Commission will continue to allocate more than 50% of the program's overall staff resources to investigations. This emphasis is necessary to properly prepare cases involving complex accounting matters, market manipulations, novel financial instruments, transactions in the international markets, and the array of complicated issues created by the evolving financial services industry. In response to a projected 11% increase in the volume of investor complaints and inquiries, at the 1986 appropriation level, the staff would open 925 matters under inquiry, an increase of 6% over 1985. The staff would also expect to open 350 investigations, a 4% increase over 1985.

In its enforcement proceedings the Commission will attempt to obtain more severe sanctions against persons and entities who engage in egregious violations of the securities laws, particularly repeat violators. Seeking stiffer sanctions will generate longer proceedings, thereby resulting in fewer settlements. The use of civil and criminal contempt proceedings will be undertaken where appropriate. The sanctions issued pursuant to these actions serve as a valuable deterrent to noncompliance with court orders. At the appropriation funding level, the staff would open and close 120 administrative proceedings, 150 civil injunctive actions and 60 criminal actions. The Commission will continue to assist the Department of Justice and U.S. Attorney's Offices in developing criminal cases against those who engage in serious securities law violations. Emphasis will also be given to cooperation with state and local law enforcement authorities and self-regulatory organizations.

Gramm-Rudman-Hollings

At the level of funding provided by Gramm-Rudman-Hollings, the staff's ability to open and pursue investigations involving complex issues would be reduced. Resources would be available to initiate and complete 340 investigations, a reduction of 3% from 1986 appropriation level. With respect to enforcement proceedings, 146 civil actions, 58 criminal actions, and 116 administrative proceedings would be opened. This represents a 3% reduction in proceedings from the 1986 appropriation level. Despite the Gramm-Rudman-Hollings reductions, enforcement activity will increase over 1985 levels. This is due to the substantial resource increases provided in the 1986 appropriations, which were not totally eliminated by the Gramm-Rudman-Hollings cuts.

1987 Program Request

The Commission will continue to emphasize efforts to combat fraud by reporting companies, violative conduct on the part of regulated entities and associated persons, offering violations, and insider trading. Areas of special enforcement attention will include: (1) efforts by issuers, including publicly-owned banks and bank holding companies, to conceal from investors adverse developments and other material financial information; (2) failures to comply with generally accepted auditing standards by accountants who examine the financial statements of issuers; (3) manipulations of the market for newly issued securities; (4) problems arising from transactions in the government securities markets; and, (5) violations arising from increased trading of securities in the U.S. through foreign financial institutions. The program will also continue to address violations occuring in changes of corporate control through tender offers and proxy contests. In 1987, investor complaints and inquiries are projected to rise 7% over 1986 to approximately 37,000. The 1987 request would permit the staff to open 925 matters under inquiry, a 5% increase over 1985 and 1986 Gramm-Rudman-Hollings levels. Resources would be available to open 350 investigations. With the proposed funding, the staff expects to open 120 administrative proceedings and 150 civil injunctive actions. Some 60 criminal actions will also be initiated.

Prevention and Suppression of Fraud

Workload Data

It is difficult to draw conclusions and make comparisons using the workload data. For example, the amount of resources necessary to conduct an investigation or enforcement action varies with the complexity of the facts, the underlying legal issues, the number of investors and defendants involved, the availability of needed evidence, the degree of cooperation provided by the subjects of the investigation, the willingness of defendants and respondents to enter into settlements that avoid protracted litigation, and many other factors. These factors will affect the ratio of resources expended to the benefits that may be obtained in a particular case. It is important to note that the principal benefit of the fraud program -- the deterrence of violative conduct -- cannot be quantified because there is no reliable basis for estimating the amount of violative conduct and the harm to investors that might have occurred but for the Commission's enforcement efforts.

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
Activity	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Intelligence Analysis								
Investor Complaints & Inquiries	31,221		34,500		34,500		37,000	
Matters Under Inquiry Opened	876		880		925		925	
		120.5		121.9		125.5		125.5
Investigations								
Investigations								
Pending at beginning of year	740		722		722		722	
Opened during year	333		340		350		350	
Closed during year	(356)		(340)		(350)		(350)	
Pending at end of year	722		722		722		722	
Subpoena Enforcement Actions								
Pending at beginning of year	6		8		8		8	
Opened during year	9		12		14		14	
Closed during year	(7)		(12)		(14)		(14)	
Pending at end of year	8		8		8		8	
		341.1		341.2		351.3		351.3

Activity	FY 1985 Actual Work-load	FY 1985 Actual Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Work-load	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Appropriation Estimate Work-load	FY 1986 Appropriation Estimate Staff Years	FY 1987 Estimate Work-load	FY 1987 Estimate Staff Years
Proceedings								
Administrative								
Administrative Proceedings								
Pending at beginning of year	37		41		41		41	
Opened during year	122		116		120		120	
Closed during year	(118)		(116)		(120)		(120)	
Pending at end of year	41		41		41		41	
Civil								
Civil Litigation 1/								
Pending at beginning of year	166		172		172		172	
Opened during year	146		146		150		150	
Closed during year	(140)		(146)		(150)		(150)	
Pending at end of year	172		172		172		172	
Criminal 2/								
Criminal Actions								
Pending at beginning of year	101		81		81		81	
Opened during year	52		58		60		60	
Closed during year	(72)		(58)		(60)		(60)	
Pending at end of year	81		81		81		81	
		147.4		146.2		150.5		150.5

1/ Includes Civil Injunctive Actions and Civil and Criminal Contempt Proceedings.

2/ This does not reflect the time spent assisting the Department of Justice and U.S. Attorneys throughout the country in connection with matters involving actual or potential criminal prosecutions.

Supervision and Regulation of Securities Markets

Program Summary

Organizations	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Staff Years	Cost (000)	Staff Years	Cost (000)	Staff Years	Cost (000)	Staff Years	Cost (000)
Market Regulation	118.6		113.4		119.0		117.0	
Applications and Reports Services	13.2		11.6		12.0		11.0	
Regional Offices	111.5		108.1		111.5		110.5	
Sub-Total, Salaries and Benefits	243.3	$ 9,695	233.1	$ 9,623	242.5	$10,059	238.5	$10,033
Non-Personnel Expenses		3,240		3,280		3,431		3,304
Total Program Cost		$12,935		$12,903		$13,490		$13,337

The program mission is to ensure fair, orderly and efficient markets for securities trading. The greatly expanded volume and complexity of the securities markets have increased program workload.

The 1986 appropriation would provide resources for program staff to conduct 21 inspections of self-regulatory organization (SRO) programs and operations, 135 broker-dealer cause examinations, 420 oversight examinations of SRO members, and 80 transfer agent examinations. Staff would be available to review 380 proposed SRO rule changes and develop 45 Commission rule proposals and interpretive releases designed primarily to reduce regulatory burdens and costs. With respect to the national market and clearance systems, nine SRO proposals to link national systems and 35 SRO rule amendments to broaden their systems will be reviewed. Finally, the appropriation would provide funding for the staff to review 3,100 broker-dealer and municipal securities dealer registrations and 2,050 withdrawal notices.

Gramm-Rudman-Hollings: In comparison with the 1986 appropriation, the Gramm-Rudman-Hollings reductions will produce a 10% drop in the number of inspections of SRO programs and operations. The staff will conduct 130 broker-dealer cause exams and 390 oversight exams of SRO members, representing reductions of 4% and 7%, respectively. There will be a 6% reduction in the number of proposed SRO rule changes filed and SEC rules prepared. National market and clearance system activities will be curtailed slightly. Eight proposals to link national systems and 32 SRO rule amendments regarding the systems will be analyzed, a 9% decline in the activities from 1986 appropriation. Reviews of broker-dealer and municipal securities dealers registrations and amendments will not be affected.

The 1987 appropriation request will provide funds for the staff to conduct 21 inspections of SRO systems, 135 broker-dealer cause exams and 410 oversight exams of SRO members. The staff will also review 380 proposed rule changes and issue 45 SEC rules and interpretive releases. Nine SRO proposals to link national systems and 35 SRO amendments to broaden their systems will be reviewed. Finally, resources would be available to process 3,300 broker-dealer and municipal securities dealer registrations and 2,160 withdrawals.

Supervision and Regulation of Securities Markets

Mission

The Securities Exchange Act of 1934 (Exchange Act) and its later amendments provide the principal statutory mandates and authority for the SEC's securities market activities. The program's mission is to establish and maintain trading standards conducive to fair, orderly and efficient markets through the supervision and regulation of the major market participants: brokers and dealers, transfer agents, municipal securities dealers, and securities information processors. As envisioned by the Exchange Act, the SEC relies on and encourages regulation of the securities industry through self-regulatory organizations (SRO's) as the primary method of ensuring fair dealing and investor protection. These organizations currently consist of 10 securities exchanges, the National Association of Securities Dealers (NASD), 10 clearing agencies, the Municipal Securities Rulemaking Board, and the Securities Investor Protection Corporation (SIPC). The SEC supervises all facets of SRO operations and acts directly only when required to fill regulatory gaps or to meet specific needs.

Market Oversight: The principal goals for market oversight are to ensure (1) that registered broker-dealers and transfer agents comply with operational and financial requirements, (2) that all broker-dealers who have public customers comply with selling and trading practices standards and (3) that the SRO's maintain effective programs to oversee their members. Market oversight involves maintaining daily contact with SRO's, conducting field examinations of SRO operations, conducting on-site compliance inspections of SRO examination programs, completing "cause" and oversight examinations of SRO members, and conducting examinations of transfer agents. In this effort, SEC staff regularly consult with and assist state securities commissions, SRO's, and federal bank regulatory agencies. The staff also conducts cause and periodic inspections of SRO trading operations, as well as their clearance and market surveillance functions, and designs and implements strategies to monitor market activities. Finally, market oversight includes the review of all SRO disciplinary actions, acting on exchange applications for unlisted trading privileges in, and delisting of, securities, and ruling on SRO proposals for the readmission of persons previously disqualified because of misconduct.

Rulemaking and Interpretation: The Commission reviews all SRO proposed rule changes within 90 days as required by the Exchange Act and the Securities Investor Protection Act. As authorized by the Exchange Act, the Commission adopts new regulations or modifies or eliminates existing rules governing the registration, sales and trading practices, and financial responsibility of market participants. This rulemaking activity is initiated primarily when standards established by the SRO's cannot appropriately respond to regulatory needs or changing market conditions or when necessary to remove unwarranted regulatory burdens. As required by the Commodity Exchange Act, the Commission reviews proposals to trade futures or options on futures contracts on broad-based securities indices. The staff also processes requests from securities professionals and issuers for no-action or exemptive relief and provides interpretive advice with respect to applicable statutes and rules.

National Market and Clearance Systems: The Commission provides guidance and reviews securities industry proposals to link, on an evolutionary basis, the securities markets and their clearance and settlement facilities into national systems, as envisioned by the Exchange Act amendments of 1975.

Registration: As required by the Exchange Act, the SEC staff examines registrations and other filings by broker-dealers and municipal securities dealers. These records must be kept current and be available for use by the public, SIPC and Commission staff.

Program Environment

Market activity and complexity have increased during recent years. For example, trading volume in all securities markets has climbed sharply. Since 1980, annual exchange share volume has increased from 15.5 billion to 36.4 billion, exchange option turnover has grown from 96.8 million contracts to 232 million, and over-the-counter share volume in securities quoted on the National Association of Securities Dealers' automated quotations system (NASDAQ) increased from 6.7 billion to 20.7 billion. During this same period, the size of the regulated population has also grown significantly. The number of registered broker-dealers, currently 11,400 firms, increased by 40% in the last three years alone. These firms have over 15,300 branch offices (representing a 108% increase over 1980) and 357,000 registered representatives (a 78% increase). Moreover, many financial institutions, such as banks and savings and loan associations and their affiliates, have recently diversified their activities to include various aspects of the securities business falling under the SEC's regulatory jurisdiction. The Commission will generally require banks actively engaged in the securities business to register as broker-dealers. As a result, an additional 500-800 such firms are expected to register with the SEC in fiscal 1986. Congress is considering proposals to repeal certain exemptions from securities regulation for brokers and dealers in U.S. government securities which would broaden the Commission's oversight responsibilities. This budget request does not take these proposals into account.

The dimensions of the regulatory task are expanding qualitatively as well. Markets for new and more complex products are rapidly emerging. In the past three years, exchange trading was initiated for options contracts on a variety of debt instruments, market indices, and foreign currencies. Options on stock indices have already grown to 48% of all options contracts volume. Moreover, in 1983 Congress gave the SEC responsibility to review proposals to trade futures contracts on stock indices. Finally, the trend toward global securities markets has impacted this program. For instance, foreign transactions in U.S. equities grew from $79.9 billion in 1982 to $123.7 billion in 1984. U.S. institutions now hold about $10-13 billion in foreign stocks compared to an estimated $1-2 billion in the late 1970's. This trend has already presented a number of statutory and regulatory issues which the Commission must address.

To encourage market efficiency and utilize Commission resources more effectively, the program has increasingly emphasized market competition and self-regulation. Moreover, the staff has initiated a number of improvements such as streamlined examinations of broker-dealers, and utilization of computerized information systems to enhance the analysis of the increasing array of data required to effectively oversee and regulate the markets.

For the past several years, the Commission has also worked to reduce the costs and burden of regulation, to simplify the rules governing market participants, and to strengthen the industry's capacity to handle the burgeoning volume of business. This effort has recognized the pivotal role that efficient secondary trading markets play in facilitating the expanded capital formation so essential to continued economic growth. Savings to the securities industry and investors arising from the combined SEC and industry efforts have already amounted to several billion dollars.

1985 Program Evaluation

Market Oversight: The SRO inspection program focused on SRO efforts to upgrade surveillance of intermarket trading violations, as well as efforts of the exchanges and NASD to develop transaction audit trails and monitor new products. The staff conducted 21 examinations of the trading market facilities, market surveillance, member compliance, and clearance programs of the SRO's.

To accommodate the dramatic growth in the number of registered broker-dealers, the staff has streamlined the broker-dealer examination program. In addition, the staff has transferred greater responsibility to SRO's to conduct cause examinations of their members and improved training for SEC field examiners. As a result, in 1985, 447 broker-dealer oversight examinations were completed, over twice the number conducted in 1980. The number of broker-dealer cause examinations which the staff had to conduct was reduced from 523 in 1980 to 145. That reduction allowed the SEC to increase the depth and frequency of its oversight examinations which measure the effectiveness of the SRO inspections of their members. It also enabled the staff to respond more effectively to the serious regulatory problems involving government securities trading and cash "laundering" during the year. Overall, SEC examinations resulted in requiring the addition of $60.6 million to the capital and reserve deposits of broker-dealers that were found to be in financial trouble, thus increasing protection of customer assets held by those firms.

Two important initiatives were undertaken to augment the examination program. Guidelines were developed to strengthen the regional office oversight programs and make them uniform. Also, to enhance examiner productivity, a pilot test was undertaken to determine the feasibility of using portable "lap" computers in conducting various aspects of broker-dealer examinations.

Rulemaking and Interpretation: Self-regulatory organizations filed 381 proposed rule changes. Of these, 85% were acted upon within the Exchange Act's 90-day timeframe. Of the remaining 15%, extended by SRO waiver, the SEC approved key proposals allowing five exchanges to begin trading of options on over-the-counter (OTC) stocks and one exchange to trade an OTC stock index option. The Commission also approved proposals by the New York Stock Exchange (NYSE) to trade stock options and to permit its specialists to use options to hedge positions in their specialty stocks. Further, the SEC authorized major revisions of the NASD's rules designed to improve the Association's procedures for handling disciplinary and other adjudicatory proceedings. During the year the Commission, in conjunction with the Federal Reserve Board and the CFTC, submitted to Congress an in-depth study analyzing the effects of trading futures and options on the nation's economy. In order to help both the private sector and regulators focus on the growing trend toward internationalization of secondary trading markets, the Commission issued a release inviting public comment on the regulatory and policy implications of that trend.

The staff developed 43 rulemaking proposals. In a significant action, the Commission adopted a rule specifying the kinds of securities activities which, if conducted by a bank, would cause the bank to lose its usual exemption from the Exchange Act's broker-dealer registration requirements. Under this ruling, by the end of 1986 some 500-800 banks or their affiliates will be subject to regulatory requirements currently applied to non-bank brokers and dealers engaged in similar activities. Many other rule amendments were designed primarily to reduce and/or simplify existing burdens on regulated entities. For example, the Commission adopted amendments to its financial responsibility rules to update broker-dealer reporting and reserve requirements. Among other effects, these actions should substantially reduce the compliance burden for many small firms. Also, the SEC adopted amendments to clarify and codify interpretations of the broker-dealer registration requirements and related exemptions which should produce a 25% decline in the number of requests for interpretive advice and exemptive relief concerning those provisions over the next year. The staff responded in writing to 1,224 requests for interpretation and exemption.

National Market and Clearance Systems: The staff continued monitoring the evolving national market system and took direct steps to promote greater market efficiency and competition. For example, the SEC adopted rule amendments which doubled the number of OTC securities that enjoy national market system transaction reporting. Also, the Commission adopted rule amendments improving disclosures to investors in OTC principal transactions and issued a policy statement indicating its willingness to allow exchanges to compete in the trading, on an unlisted basis, of OTC securities qualified for the national market system. The Commission continued to bring a broader range of participants and transactions into the national clearance and settlement systems, where many millions of dollars of savings in processing costs incurred by both industry and investors can still be realized. Among other steps, the staff hosted a three-day workshop in which representatives of the securities issuance and processing communities reviewed recent developments and discussed specific methods of expanding the use of depositories and book-entry systems for the immobilization of securities certificates. A draft report on the workshop has been made available for public comment.

Registration: During 1985, the staff fully reviewed 80% of 2,834 applications for broker-dealer registration (including municipal securities dealers) and all 1,193 registration withdrawal notices within the statutory timeframes. The 7,541 amendments filed received limited review and were largely accepted as filed.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

With the funding provided by the 1986 appropriation, the staff would continue to respond to the multiple impacts of sustained rapid growth in market activity and complexity as well as to the national need for ready access to secondary markets to facilitate capital formation and economic growth. Therefore, high priority will be assigned to (1) implementing industry and Commission initiatives to enhance market efficiency and to eliminate unnecessary regulatory costs and burdens; (2) maintaining effective systems to oversee the growing role of SRO's and to ensure compliance by other regulated entities with applicable financial, operational, selling practice, and qualifications requirements; and (3) acting quickly on new registrations and requests for interpretations and exemptive relief.

Market Oversight: With the SEC entrusting greater responsibility to SRO's to implement and upgrade their surveillance, compliance, trading and clearance systems, it is crucial for the staff to monitor the effectiveness of SRO internal operations. The 1986 appropriation will permit the staff to conduct 21 inspections of SRO programs and operations, with each of those inspections targeting known problems. The broker-dealer examination program would emphasize greater depth in member oversight examinations while continuing to encourage the SRO's to conduct more cause exams. In all, the staff would conduct 420 oversight and 135 cause examinations.

Rulemaking and Interpretation: Resources would be available for the staff to act, within the 90-day statutory period, on 325 (85%) of the projected 380 proposed SRO rule changes. Reviews of more complex rules, such as SRO proposals to introduce new trading vehicles or more efficient methods for clearing and settling transactions, will normally extend beyond the statutory period, with the consent of the SRO. The 1986 appropriation would permit development of 45 Commission rule proposals and interpretive releases concerning the regulation of securities professionals. These would largely focus on reducing regulatory burdens. The staff would respond to 1,350 requests for interpretive advice and exemptive relief from the private sector. Of these, 75% will be answered within 30 days.

National Market and Clearance Systems: Funding provided by the 1986 appropriation would facilitate timely review of nine amendments to joint industry plans for linking markets and clearing facilities. The staff would encourage further expansion of automated processing of debt securities transactions and act upon 35 SRO rule amendments relating to the establishment of national market and national clearance systems. Work would also continue on short and long-range programs to encourage industry action to bring a broader range of participants and services to the national systems, where many millions of dollars in cost savings remain to be realized.

Registration: The staff will fully examine approximately 54% (1675) of the 3,100 broker-dealer and municipal securities dealer registration applications expected in 1986. Through improvements in productivity, the increased number of withdrawal notices received will continue to be fully examined. All registration amendments will undergo limited review.

Gramm-Rudman-Hollings

At the reduced funding level, the Commission's progress in pursuing the priorities and goals identified for the 1986 appropriations will be acceptable, although slowed. For example, with respect to market oversight, the staff will inspect 20 SRO programs and operations, focusing on known problem areas. This represents a 10% decline in inspections activity from the 1986 appropriation level. Resources will be available to conduct 390 oversight examinations of SRO members and 130 broker-dealer cause exams, a decline in the number of these exams of 7% and 4%, respectively. The rulemaking and interpretation staff will act, within the 90-day statutory period, on 82% of the proposed SRO rule changes, as compared to the 85% figure possible under the appropriation. Interpretive and exemptive correspondence to SRO's, broker-dealers and others will decline 7%. The staff will also develop 42 Commission rule amendments designed primarily to reduce regulatory burdens, 6% less than the number possible under the 1986 appropriation. Commission efforts to upgrade trading market and clearance efficiency will slow as resource reductions produce an 11% drop in the number of linkage plans reviewed and a 6% drop in analyses of SRO amendments to rules. Processing of broker-dealer and municipal securities dealer registrations will not be affected by the reductions.

1987 Program Request

Market Oversight: The 1987 appropriation request will permit the staff to conduct 21 inspections of SRO programs and operations, with all inspections targeting known problems. The broker-dealer examination program staff will conduct 410 oversight examinations of SRO members and 135 cause exams of broker-dealers.

Rulemaking and Interpretation: The staff will act on a projected 380 proposed SRO rule changes in 1987. Eighty-five percent of these rules will be reviewed with the 90-day statutory period, while analysis of the more complex proposals will, with the consent of the SRO, extend beyond the statutory period. The appropriation request will permit the staff to develop 45 rule proposals and interpretive releases designed principally to reduce unnecessary regulatory burdens on securities professionals. The staff will also respond to 1,350 requests for interpretive advice and exemptive relief. Seventy-five percent will be answered within 30 days.

National Market and Clearance System: Nine amendments to joint industry plans for linking markets and clearing facilities will be reviewed in 1987. The staff will continue encouraging automated processing of debt securities transactions and will act upon 35 SRO rule amendments regarding national market and national clearance systems. Millions of dollars of savings in processing costs incurred by both the industry and investors can be realized by bringing a broader range of participants and services to these national systems.

Registration: Resources will be available for the staff to process 3,300 broker-dealer and municipal securities dealer registrations. Some 1,780 will receive full reviews. The staff will also fully review 2,160 registration withdrawals and provide a limited review of 8,100 registration amendments.

Supervision and Regulation of Securities Markets

Workload Data

Activity	FY 1985 Actual Work-load	FY 1985 Actual Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Work-load	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Appropriation Estimate Work-load	FY 1986 Appropriation Estimate Staff Years	1987 Estimate Work-load	1987 Estimate Staff Years
Market Oversight								
Inspections of SRO activities	21		20		21		21	
Oversight examinations of SRO members 1/	447		390		420		410	
Broker-dealer cause examinations	145		130		135		135	
Review of financial reports	8,111		7,900		8,000		7,900	
Re-entry applications processed	75		100		100		110	
Transfer agent inspections	79		90		80		80	
		157.3		151.9		157.4		155.7

1/ Oversight examinations of SRO members conducted in conjunction with cause examinations are not included as oversight examinations.

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-Load	Staff Years	Work-load	Staff Years
Rulemaking and Interpretation								
SRO proposed rule changes	381		370		380		380	
Commission rules and interpretive releases	43		42		45		45	
Interpretive and exemptive request correspondence	1,224		1,250		1,350		1,350	
Analyses of registration statements referred by Corporation Finance	528		300		360		360	
Analyses of proposed enforcement actions	102		130		130		140	
Analyses and reports prepared	253	62.6	220	59.8	250	62.8	250	61.8
National Market and Clearance Systems								
Amendments to SRO rules filed	33		32		35		35	
Amendments to national market system plans filed	8		8		9		9	
Development of Commission rules and interpretive releases	10		9		9		9	
Analyses and reports prepared	26		50		55		45	
Congressional, intergovernmental, securities industry and public correspondence prepared	36	10.2	40	9.8	45	10.3	40	10.0

	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Registration								
Broker-dealers and municipal securities dealers								
applications for registration received and processed	2,834		3,100		3,100		3,300	
applications fully reviewed 2/	2,267		1,675		1,675		1,780	
applications for registration returned 3/	844		745		745		790	
amendments filed 4/	7,541		10,550		10,550		8,100	
registrations withdrawn or cancelled 5/	1,193		2,050		2,050		2,160	
		13.2		11.6		12.0		11.0
Permanent Staff Years		243.3		233.1		242.5		238.5

2/ Since late 1985, full review has been limited to filings of applicants proposing to have public customers. Qualifications of other entrants are reviewed by SRO's.

3/ Approximately 85% of applications are returned for major deficiencies, of which approximately 85% are resubmitted after deficiencies have been corrected.

4/ Data for 1985 and 1986 include special filings made because of revisions to registration forms adopted in fiscal 1984 and 1985.

5/ Data for 1986 and 1987 include effects of rule amendments adopted in 1986 which are expected to lead to withdrawal of many inactive firms.

Investment Management Regulation

Program Summary

Organizations	FY 1985 Actual Staff Years	FY 1985 Actual Cost (000)	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Cost (000)	FY 1986 Appropriation Estimate Staff Years	FY 1986 Appropriation Estimate Cost (000)	FY 1987 Estimate Staff Years	FY 1987 Estimate Cost (000)
Investment Management	107.5		105.2		108.6		108.6	
Applications and Reports Services	18.5		17.0		17.5		17.5	
Regional Offices	76.8		87.5		90.2		90.2	
Sub-total, Salaries and Benefits	202.8	$8,152	209.7	$8,588	216.3	$8,893	216.3	$8,975
Non-Personnel Expenses		2,364		2,373		2,560		2,449
Total Program Cost		$10,516		$10,961		$11,453		$11,424

The Investment Management Regulation Program strives to achieve investor protection in the investment company (IC) and investment adviser (IA) industries without imposing undue costs and burdens on regulated entities through disclosure, regulation and inspection activities. It also ensures that registered public utility holding companies operate in the public interest. The program workload is rising due to the dramatic growth in the number of registered IC's and IA's, the growing diversity of financial products and the increasing complexity of utility holding company transactions.

The 1986 appropriation would permit the staff to comment on 600 (38%) of the 1,577 new IC registrations and process over 19,400 IA registrations and amendments. Some 650 no-action and interpretive letters would be issued, together with 345 exemptive orders. The staff would issue 13 new rule proposals and take final action on 13 others. Resources would be available to complete 570 IC examinations and 1,150 IA inspections.

Gramm-Rudman-Hollings: The Gramm-Rudman-Hollings reductions will produce a 2% decline in the number of IC registrations and amendments reviewed. The thoroughness of the review given IA filings will be reduced and, as a result, the number of these registrations returned for deficiencies will drop 7%. The number of exemptive applications reviewed and orders issued will drop 3% and one major rulemaking effort will be deferred. The number of IC and IA inspections will decrease by 15 examinations. Despite these reductions, activity levels in some areas of this program will increase over 1985 due to the significant enhancements provided in the 1986 appropriation.

The 1987 request will permit the staff to review 620 of the 1,905 new IC registrations received and process 19,400 of the IA registrations and amendments received. The staff will issue 345 exemptive orders and meet 650 requests for no-action or interpretive advice. The benefit of these activities to the public and the industry is estimated to be $48 million. Resources would permit the staff to complete 575 IC inspections and 1,350 IA inspections.

Investment Management Regulation

Mission

The mission of the Investment Management Regulation Program is to minimize the risk of investor loss from fraud, mismanagement, self-dealing and misleading disclosure in the investment company (IC) and investment adviser (IA) segments of the financial services industry, without imposing unnecessary costs and burdens on those regulated. The program also maintains investor confidence by ensuring that interstate holding companies engaged in the electric utility business or the retail distribution of gas operate in the public interest and with sound financial structures. IA's provide advice to individual and institutional investors for a fee and according to terms specified in registration material filed with the Commission. Examples of IA's include pension fund managers, insurance companies offering certain types of securities-related products and certain financial planners. A typical IC is managed by an IA that invests stockholder capital in accordance with policies described in a prospectus. Money market and common stock mutual funds are examples of the more popular forms of IC's. A public utility holding company is an entity that owns all or a majority of the stock of several operating electric or gas utility companies.

Disclosure: The review of disclosure documents filed by IC's and IA's helps protect investors by ensuring compliance with the Investment Company and the Investment Advisers Acts of 1940 (1940 Acts), the Securities Act of 1933 (1933 Act) and the Securities Exchange Act of 1934 (1934 Act). Disclosure documents include initial registration statements and their annual amendments, proxy statements, and periodic financial reports. The review process ensures that the entity's policies and procedures are presented clearly and that its proposed activities comply with the law.

Registration forms provide essential information concerning each IC's investment objectives and restrictions, its past investment performance and its adviser. They are reviewed to ensure that investors have the information needed to make informed decisions. Unlike other corporations, most IC's sell their shares continuously. Therefore, most registration statements must be updated annually by post-effective amendment. Generally, initial registration statements are reviewed by the staff and necessary changes are obtained before they are declared effective. Selective review procedures, under which the staff performs limited or no review, have been adopted for IC registration statements and post-effective amendments that contain information previously reviewed by the staff. The staff receives but does not analyze reports of securities holdings filed by institutional investors.

Regulation: Regulatory activities include rulemaking, responding to requests for exemption from statutory requirements and providing advice on the application of statutes and rules (commonly referred to as no-action and interpretive advice). The goals of regulation are to increase investor protection, reduce burdens and costs to the industry and facilitate legitimate activities by registrants. The 1940 Acts authorize rulemaking and require action on exemptive requests. Exemptive orders allow IC's and IA's to engage in transactions that are demonstrably in the interest of investors, but are otherwise prohibited by the 1940 Acts. Giving interpretive advice, while discretionary, is an important way of assisting registrants in applying statutes and rules to new financial instruments or methods of operation developed in response to rapidly changing markets. Interpretive advice informs registrants of the SEC's position, making them more willing to commit resources to new ventures.

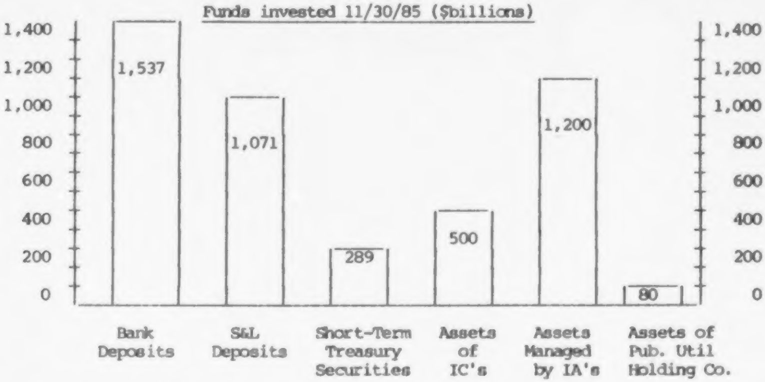
Inspections: Inspections of the investment and operational activities of IC's and IA's are conducted to determine the accuracy of disclosure in the registration statement and prospectus as well as compliance with statutory provisions The knowledge that unannounced inspections might identify deficiencies that could lead to enforcement action effectively deters abuses and minimizes the risk of loss to investors. Examiners analyze operating and control systems, review books and records, and discuss investment and operational activities with management. When appropriate, a letter identifying deficiencies and requesting corrective action is sent to the registrant or, in egregious cases, the inspection report is referred to the enforcement program for further consideration. Resolving problems through deficiency letters averts costly private litigation or SEC enforcement action.

Public Utility: The Public Utility Holding Company Act of 1935 (1935 Act) requires interstate holding companies to register with the SEC if they have subsidiaries engaged in generating, transmitting, or distributing electric energy or the retail distribution of gas. Registration subjects significant transactions such as major acquisitions, financing activities, dispositions of property or securities, and interaffiliate transactions to review by the Commission. The 1935 Act specifically requires that the Commission (1) authorize certain financial transactions, (2) implement rules to achieve the goals of the 1935 Act and (3) periodically examine holding company operations.

Review of significant financial transactions of the holding company systems ensures both that the transactions are economically necessary and appropriate for efficient operation and that costs and revenues are distributed equitably among consumers and investors. Reviews consist of financial and legal analysis to determine whether the proposed action complies with the 1935 Act's standards. Rulemaking removes unnecessary restrictions on the industry while maintaining investor and consumer protection. The staff also provides guidance on the 1935 Act and related rules in the form of interpretive and no-action letters. Records of subsidiary service companies are inspected by the SEC on a six-year cycle. These inspections are often performed in conjunction with the Federal Energy Regulatory Commission to maximize efficiency and minimize disruptions to the operations of the companies inspected.

Program Environment

Assets under management by IC's and IA's constitute a significant segment of the nation's investment funds, as shown below. Since 1981, the assets of IC's have grown at a compound annual rate of 16%, doubling every 4.5 years, while assets managed by IA's have grown at a compound annual rate of about 24%, doubling every 3 years. The assets of public utility holding companies which own interests in 100 operating utilities represent about 12% of the assets of all electric and gas utilities. These holding companies, which provide 15% of the nation's electric generating capacity and 8.1% of all natural gas sales to consumers, have operating revenues of approximately $35 billion and assets of approximately $80 billion.


Funds invested 11/30/85 ($billions)

There will be 2,660 IC's, and 14,000 IA's registered with the SEC at the beginning of 1987, representing increases since the beginning of 1985 of 20% and 54%, respectively. Despite the deregistration of a few investment advisory newsletters resulting from the Supreme Court's decision in the Lowe case, ease of entry into the financial planning field coupled with increased publicity about the requirement for SEC registration will lead to increases in adviser registrations, doubling the IA population every three to four years for the foreseeable future. Continuing change in the IC industry and the dramatic growth in the IA industry have caused the Commission to implement innovative procedures to increase staff productivity. These methods include: the selective review of IC registrations and post-effective amendments; joint inspections and the exchange of data with state securities commissions to broaden coverage of the IA industry; and the systems examination approach to inspections, a procedure that focuses on key operating and internal control systems of IC complexes.

Several developments in the insurance products industry will increase the program's workload. The Commission has adopted, on a temporary basis, a rule to permit the registration of a new form of variable insurance product known as "flexible premium variable life insurance." Efforts to offer this new product have produced a 100% increase in the number of insurance company registrants during 1985 alone. In addition, continuing evolution in product design, such as new forms of guaranteed investment contracts, are expected to generate new filings.

In the area of public utility holding company regulation, transactions by holding companies are becoming more complex, requiring more time for staff review. This is due in large part to the financial problems facing utility companies and their need for greater financial flexibility. High energy supplies, reduced demand, and the decline in rates of return have severely strained holding company finances. Currently, these companies are looking toward diversification into such ventures as communications and management consulting to increase profits.

1985 Program Evaluation

The Investment Management program strives to ensure that the assets investors entrust to IC/IA's are protected from abuse and that public utility holding companies are operated in the public interest and maintain sound financial structures. Although investor losses are quantifiable, the primary value of the program lies in unmeasurable benefits such as investor confidence and industry stability. These benefits accrue from the program's deterrent effect and the fact that the program fosters early detection of violations. The true measure of the program's success is the amount of money not lost by investors.

Disclosure: During 1985, the transition to the new, simplified registration form, Form N-1A, was completed. Moreover, insurance company separate accounts offering variable annuities began converting to a simplified registration statement, increasing the number of full reviews of post-effective amendments.

Staff review of the 575 registration statements of new IC's that were declared effective generated over 33,400 specific comments. Forty percent of the new IC registrations contained material deficiencies. Continued refinement of selective review procedures permitted the staff to process 26% more post-effective amendments than during 1984. Over 11,500 new IA registrations and amendments were processed. Some 28% of the new registrations were returned because of material deficiencies. These deficiencies included faulty financial information, failure to disclose convictions and adverse administrative actions, and inaccurate descriptions of educational and work experience. Because of staffing limitations, the 56% increase over 1984 in the number of IA filings, and the greater complexity of filings, IA disclosure documents with minor deficiencies are now accepted and processed rather than returned to the registrant.

Regulation: The staff prepared 649 no-action letters and legal memoranda, an increase of 51% over 1984. The staff also responded to 26,000 oral requests for interpretation of the Acts, rules and forms. Timely and well-considered responses to interpretive and no-action requests are important because they avoid violations and costly enforcement action or private litigation. Commission responses to these requests save registrants approximately $12 million annually. The staff also issued 356 orders exempting IC's and others from various provisions of the securities laws. These exemptive orders produced an estimated $37 million in savings to investors.

During 1985, 15 new rules and amendments were adopted, including new and simplified registration forms for IC's organized as insurance company separate accounts, a new uniform registration form for use by IA's registering both with states and the SEC, and a new semi-annual reporting form for IC's that replaced 5 more complex annual reporting forms. New rules also included measures to permit IC's to sell their redeemable securities with scheduled variations in their sales loads and an amendment to permit IA's to store required records on electronic or magnetic media. In addition, 16 rule proposals were issued during the year. These included: new simplified registration forms for unit investment trusts and for IC business combination transactions, a rule permitting IA's to receive performance-based compensation in certain circumstances and an amendment to the money market fund pricing rule to permit such funds to acquire instruments that have certain liquidity puts attached.

Most new rules effect cost savings for both the Commission and the industry through simplifying filing procedures, eliminating reporting requirements, or obviating the need for registrants to seek exemptive orders as a prerequisite to engaging in a particular transaction. The rules adopted during 1985 are estimated to produce an annual cost savings to the IC/IA industries of $246 million.

Inspections: The number of IC inspections completed in 1985 continued to increase as a result of the systems examination approach to inspecting IC complexes that was implemented in 1984. Using these procedures, IC's that are part of a complex of funds can be inspected much more efficiently than individual IC's. In 1985, the staff completed 567 regular IC inspections, the greatest number ever completed during a single year and a 14% increase over 1984. In addition, 300 special limited inspections of money market fund repurchase agreement practices were performed. The staff also inspected 11 IC shareholder servicing agents, the companies which process shareholder purchase and withdrawal orders. The assets of the IC's inspected in 1985 represented about 15% of the industry's total of $475 billion. The staff also completed 1,039 IA inspections, the highest number of inspections ever performed during a single year, and a 24% increase over 1984. By comparison with 1983, the year before many of the productivity enhancements were fully implemented, inspections per staff year increased 98% for IC's and 14% for IA's. Based on the findings in the IC and IA inspections, 866 letters discussing deficient practices or procedures were issued. Deficiencies found in 405 of the inspections were resolved orally. However, inspections of 94 registrants uncovered problems serious enough to be referred for further investigation. Overall, some form of remedial action was required in 85% of the regular inspections.

The fact that the percentage of inspections requiring remedial action has not changed significantly over the past three years indicates that the quality of inspections has not been adversely affected by the new inspection procedures. From various actions taken against IC's and IA's, approximately $2.4 million was recovered for investors.

The staff conducted intensive classroom and on-the-job training in the techniques of performing IA inspections for 44 persons in 16 state securities commissions. This training was the initial step in a new cooperative program between the SEC and the states to enhance the ability of state securities personnel to conduct IA inspections. This cooperative effort will increase the number of inspections completed and improve oversight of the rapidly expanding IA population. Altogether, 127 joint examinations were completed during 1985.

Public Utility: The staff reviewed 193 filings and generated comments and changes designed to reduce the costs and burdens on the regulated companies. Improved review procedures have allowed the staff to process the same number of applications as in the preceding year with 45% fewer personnel. Three hundred twenty-seven notices and orders regarding financial transactions were issued. The external financings of holding company systems approved by the Commission totaled $4.2 billion. Approximately $3.6 billion of this amount was long-term debt financing, while $600 million was for equity financing. In addition, the Commission approved over $5.7 billion of short-term financings and $2.2 million of pollution control financings. Companies have been encouraged successfully to include several financing proposals in one application, thereby reducing application fees and permitting the Commission to focus on a system's financing needs for a whole year. This efficiency has allowed the staff to provide greater technical assistance to state regulatory authorities. The Commission authorized $657 million of capital outlays for fuel exploration and development purposes. These authorizations also permitted holding companies to acquire control over part of their fuel supply by creating subsidiaries or joint ventures to produce, transport, and finance supplies or reserves. As required by the 1935 Act, the Commission also ensured that subsidiary service companies rendered services at cost.

The staff initiated a review of rules under the 1935 Act to eliminate unnecessary restrictions. A proposal was issued to permit a limited number of persons affiliated with investment bankers or commercial banking institutions to serve as directors or officers of holding companies and their subsidiaries. The purpose of this proposal is to simplify, clarify and expand an existing rule to give holding companies more flexibility in selecting their officers and directors. A second proposal was issued which would require holding companies to provide a draft notice to accompany an application or declaration filed with the SEC, a measure which would greatly enhance staff productivity. The Commission also adopted temporary rules and forms to facilitate participation of holding companies in the pilot Edgar electronic filing system. The SEC began accepting electronic filings under the 1935 Act on July 1, 1985. Finally, the staff processed 110 claims for exemption from the 1935 Act and completed two audits of subsidiary service companies.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

Disclosure: With the funding provided in the 1986 appropriation, the disclosure staff would review and comment on 600 of the 1,577 new IC registration statements received and 1,100 of the 5,155 post-effective amendments. Some 5,400 IA registrations would be processed. Also, the staff, with the support of the electronic filing activity, will electronically receive and process registration statements, post-effective amendments and proxies from a selected group of IC registrations.

Regulation: The expected decrease in filings of routine exemptive applications resulting from a series of new exemptive rules will be offset partially by exemptive applications generated by new types of investment products requiring Commission orders. Further, it is expected that the applications received will be more complex, requiring up to 20% more time for analysis. With the 1986 appropriation, resources would be available to issue 345 exemptive orders. The staff would be available to handle two administrative hearings during 1986 involving complex and contested applications. The staff would also respond to over 26,000 telephone requests regarding the applicability of the 1940 Acts to proposed investment programs and financial instruments.

The 1986 appropriation would permit the staff to issue thirteen new rule proposals and take final action on 13 others. Emphasis would be placed on (1) establishing a "safe harbor" for certain annuity products and providing exemptive relief for the new flexible premium variable life insurance product; (2) soliciting comments on how to provide a better framework for allowing IC's to acquire securities underwritten by affiliates during the primary offering; (3) permitting IC's to acquire certain types of put options; (4) amending the IC recordkeeping rules to permit retention of records on electronic media and (5) adopting simplified registration forms for unit investment trusts.

Inspections: To accommodate the growth in the IA population, twelve additional examiners would be hired during 1986. However, because of the need to train these new examiners, the full impact of these resources on the number of inspections completed would not appear until 1987. New inspection procedures for financial planners that focus on potential conflict areas will become operational, permitting the staff to complete more inspections without affecting the efficacy of the inspection process. The inspection staff also will increase its use of a system that permits inspection reports to be transmitted electronically between the regional offices and the Division. These transmissions reduce the use of paper and increase the speed and efficiency with which the reports are reviewed and filed.

In addition to conducting IA inspection training sessions in several additional states, the staff and state securities personnel will exchange information on inspection schedules to avoid duplicative efforts and to promote joint SEC-state inspections.

Public Utility: The staff will review and analyze 90% of the 220 filings received within 90 days of receipt. Final SEC orders will be issued and appropriate notices published within 120 days of receipt. All 882 annual and periodic reports received will be reviewed and 75% of the 85 interpretive and no-action letters will be answered within 120 days of receipt. One inspection of service companies will be completed.

Gramm-Rudman-Hollings

As indicated in the following discussion, the Gramm-Rudman-Hollings reduction will decrease investment management regulation activities from what could have been achieved under the 1986 appropriation. Nevertheless, because of the significant increases provided for this program in the 1986 appropriation, some activities, notably inspections, will rise over 1985 levels.

Disclosure: The staff years available in disclosure will be reduced, and, as a result, the average time required to review registration statements and post-effective amendments will be increased. These increases will result in commensurate increases in the delays experienced by registrants in bringing new products to market. Overall, investment company disclosure will decline two percent. While reviews of IA disclosures will continue at the same level, the thoroughness of the reviews will be affected. As a result, the number of IA registrations returned for deficiencies will decline 7%.

Regulation: The number of exemptive applications reviewed and orders issued will be reduced by approximately 3%, with a corresponding increase in backlog. Although all final rulemaking actions proposed for 1986 will be completed, at least one rulemaking proposal scheduled for development during the year will not be initiated.

Inspections: The number of examiners that would have been hired and trained during 1986 will be reduced by 2.7 staff years. Due to the "down time" involved in training new staff, these personnel would only complete 15 inspections in 1986, which will be forgone. The cut will have a more substantial effect in 1987, however, when these fully-trained staff would be able to complete 50 inspections.

Public Utility: This program activity will not be affected.

1987 Program Request

With the resources requested in 1987, investment management staff will continue to implement innovative methods to increase productivity and maintain a high level of investor protection.

Disclosure: The disclosure staff expects to review and comment on 620 of the 1,905 new IC registration statements and 1,150 of the 6,031 post-effective amendments that will be filed. All of the 4,800 semi-annual reports received on new Form N-SAR will be analyzed using a newly developed computerized screening program.

As a result of the adoption of a new uniform registration form for IA's, which became effective on January 1, 1986, all 12,000 existing IA's will be required to re-register on the new form. Approximately 19,400 new registrations and amendments will be received during 1987. The staff expects to fully review 75% of the new registrations and to accept amendments as filed. In addition, the staff will process the 16,400 annual reports that will be filed.

Regulation: The staff will issue approximately 345 exemptive orders and handle 650 requests for no-action or interpretive advice. The benefit to the public from these activities is projected to be $48 million. The staff anticipates one administrative hearing during 1987 involving a contested application that raises complex issues. The staff also will respond to over 27,000 telephone requests concerning the applicability of the 1940 Acts to proposed investment activities.

Discussions will continue with state securities officials to implement the new uniform IA registration form and to explore ways in which a central registration facility can be established to receive all forms filed by IA's. Centralized registration will reduce costs and burdens for IA's registering with both the SEC and one or more states.

Inspections: The systems examination approach for IC's will be supplemented with the analysis of IC statistics obtained from filings on the new semi-annual reporting form, N-SAR. The staff expects to complete 575 inspections of IC's (an inspection cycle of 4.6 years) and 1,350 IA inspections (an inspection cycle of 9.3 years). Some 10 shareholder servicing agents also will be inspected. Additional productivity improvements will be made in the preparation of inspection reports. Early estimates are that perhaps 40% to 50% of the time normally spent writing the inspection report can be saved by using a computer. The staff expects to complete between 75 and 100 computer assisted inspections during 1987.

Inspection findings and information on corrective actions taken by registrants will be exchanged with state securities offices on a routine basis, improving SEC-state oversight of IA's.

Public Utility: The staff expects to review and analyze the 220 filings received within 90 days of receipt and to issue appropriate notices and final SEC orders within 120 days. Over 88 annual and periodic reports will be reviewed. The staff will respond to an anticipated 85 requests for interpretive and no-action advice within 120 days. One inspection of a public utility service company will be completed.

1987 Estimated Benefits

Activity

Disclosure	Comments Given
New registrations - IC	48,800
Post-Effective amendments - IC	49,300
Proxies - IC	11,700
New registrations - IA	3,250
Amendments - IA	100
Annual Reports - IA	None

Regulation	Cost Avoidance
Exemptive Applications	$ 35,600,000
Administrative hearings	Not estimable
No-action/interpretive letters	12,200,000
Oral inquiries	Not estimable
Rulemaking	213,000,000

Inspections	Recoveries	Detection Value ($mill.)
Investment companies	$1,000,000	126.0
Active investment advisers	2,500,000	18.7
Shareholder servicing agents	200,000	N/E

Public Utility	Reduced Costs
Review of filings and reports	$21,700,000
Service company inspections - benefits	12,100,000

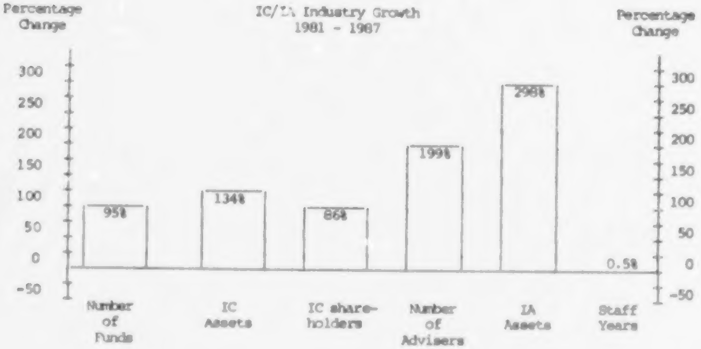
Productivity Tables

Activities Per Staff Year

	1981	1982	1983	1984	1985	1986 Est	1987 Est
Disclosure							
IC registration statements reviewed and processed	45	64	70	85	86	91	108
IC post-effective amendments reviewed and processed	491	564	589	478	551	559	654
Proxy statements reviewed and processed	222	351	359	347	285	285	285
Adviser registration statements and amendments reviewed and processed	599	522	773	800	1,250	2,094	2,094
Regulation							
Exemptive applications processed	12	23	24	20	19	19	19
No-action letters answered	66	68	74	67	101	101	101
Inspections							
Investment company inspections completed	7.9	9.4	9.2	16.9	18.2	18.3	18.5
Investment adviser inspections completed	10.4	18.6	18.7	18.3	21.4	20.0	22.7
Inspection reports reviewed	886	1,005	1,140	1,120	1,120	1,120	1,120

Investment Management Regulation

Workload Data



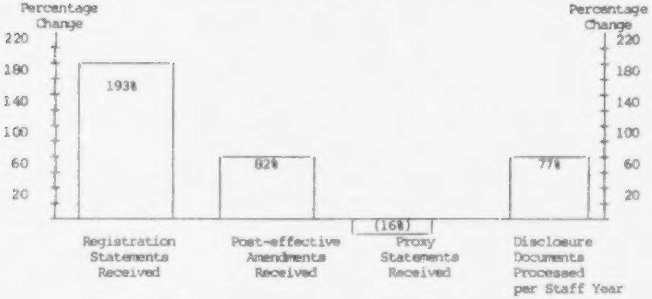
							Growth During 1987	
	1981	1982	1983	1984	1985	1986 Estimate	10/1/86 Estimate	9/30/87 Estimate
Investment Companies								
No. of companies 1/2/	1,461	1,574	1,830	2,057	2,210	2,450	2,660	2,850
Assets ($ billions)	235	315	315	360	370	465	520	550
Shareholders (Millions)	21.5	25.0	25.0	28.0	30.0	35.0	38.0	40.0
Investment Advisers								
Total No. of advisers 2/	5,680	6,265	5,445	7,043	9,083	11,100	14,000	17,000
No. of active advisers 2/	3,670	4,200	4,900	6,300	7,700	10,000	12,600	16,100
Assets under management ($ billions)	440	450	670	780	850	1,200	1,500	1,750
No. of clients and subscribers (millions)	1.4	1.5	1.8	2.0	3.5	5.0	6.5	7.5
Permanent Staff Years	202.2	191.1	186.9	183.4	189.8	203.3	203.3	203.3

1/ Includes only the number of investment companies filing registration statements under the Investment Company Act of 1940 and does not reflect new investment company series registered only under the Securities Act of 1933.

2/ Number at the beginning of each fiscal year.

Investment Company Disclosure Activity

Changes in Workload and Staff Years 1981 - 1987

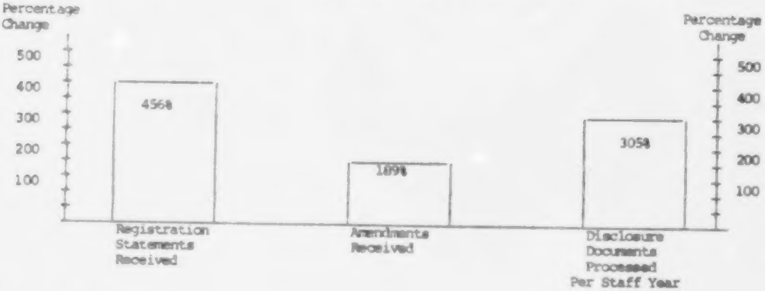


	1982	1983	1984	1985	1986 1/ Gramm-Rudman	1986 Appro-priation	1987 Estimate
Registration Statements							
Received/Processed	1,105	1,090	1,080	1,327	1,577	1,577	1,905
Reviewed	781	576	549	575	590	600	620
Post-effective Amendments							
Received/Processed	2,605	3,423	3,387	4,251	5,155	5,155	6,031
Reviewed	964	600	1,126	1,005	1,080	1,100	1,150
Proxy Statements							
Received/Processed	1,023	1,276	1,142	1,023	916	916	821
Reviewed	379	519	552	550	493	493	441
Annual & Periodic Reports							
Received	7,460	8,033	8,650	9,314	4,400	4,400	4,800
Reviewed manually	1,492	1,607	2,163	2,200	0	0	0
Analyzed by computer	0	0	0	0	4,400	4,400	4,800
Not reviewed	5,968	6,426	6,487	7,114	0	0	0
Permanent Staff Years	44.1	42.0	42.0	46.5	45.5	46.5	46.5

1/ The impact of Gramm-Rudman-Hollings will be to lengthen the time it takes to review documents.

Investment Adviser Disclosure Activity

Changes in Workload
1981 - 1987



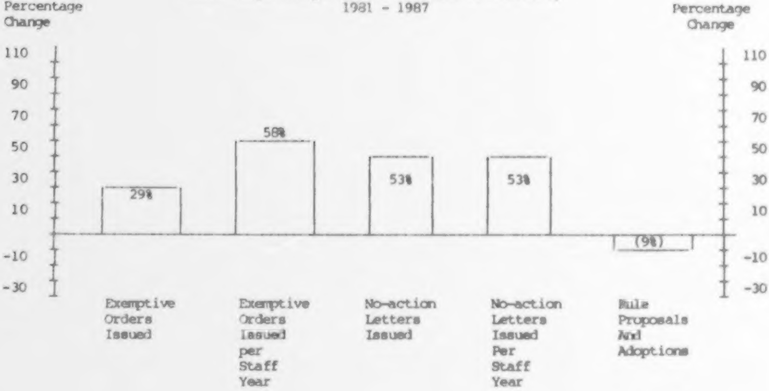
	1982	1983	1984	1985	1986 1/ Gramm-Rudman	1986 Appro-priation	1987 Estimate
Registration statements							
Received/Processed	1,757	2,400	2,600	4,086	5,400	5,400	6,400
Returned	381	500	650	1,141	1,400	1,500	1,790
Becoming Effective	1,374	1,800	1,900	2,912	3,900	3,900	4,610
Amendments							
Received/Processed	3,077	4,948	5,000	7,492	14,000	14,000	13,000
Not reviewed	0	577	500	7,049	4,000	4,000	12,000
Annual Reports Processed	600	1,000	5,100	8,262	2,000	2,000 2/	16,400
Permanent Staff Years	12.2	10.8	9.4	10.0	9.5	10.0	10.0

1/ The impact of Gramm-Rudman-Hollings will be to lengthen the time it takes to process documents. In addition, review of disclosure documents will be cursory.

2/ The number of annual reports processed during 1986 will drop because registrants using the new uniform ADV form will not be required to file an annual report during the year that the new form is filed.

Regulation Activity

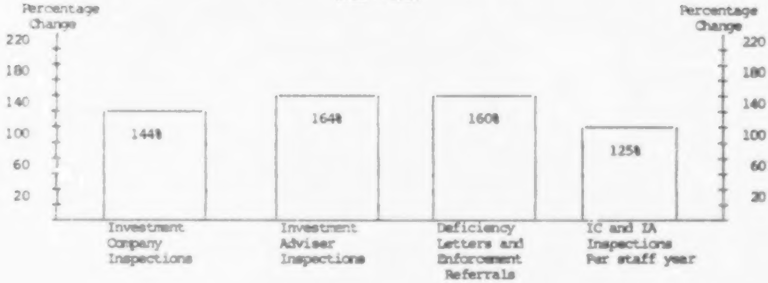
Percentage Changes in Workload and Productivity
1981 - 1987



	1982	1983	1984	1985	1986 Gramm-Rudman	1986 Appro-priation	1987 Estimate
Interpretive and no action letters	426	446	430	649	650	650	650
Exemptive orders issued	402	420	390	356	335	345	345
Administrative proceedings conducted	1	1	0	0	2	2	1
Responses to shareholder letters	86	95	100	100	100	100	100
Rule proposals issued	9	13	6	16	12	13	12
Final action taken	4	11	10	15	13	13	12
Responses to oral inquiries	15,475	20,000	25,000	26,000	26,000	26,000	27,000
Permanent Staff Years	47.6	45.5	45.6	49.4	48.1	49.5	49.5

Inspection Activity

Percentage Changes in Workload, Staff Efficiency and Staff Years
1981 - 1987



	1982	1983	1984	1985	1986 Gramm-Rudman	1986 Appropriation	1987 Estimate
Investment companies							
Inspections completed	355	342	497	567	565	570	575
Deficiency letters sent	224	205	277	316	316	316	320
On-site resolutions	N/A	N/A	117	135	135	135	140
Referrals to Enforcement	18	30	21	29	29	29	30
Investment Advisers							
Inspections completed	710	737	837	1,039	1,140	1,150	1,350
Deficiency letters sent	522	471	446	550	612	612	720
On-site resolutions	N/A	N/A	230	270	310	310	350
Referrals to Enforcement	45	35	56	65	75	75	78
Shareholder servicing agent							
Inspections completed	N/A	N/A	18	11	10	10	10
Deficiency letters sent	N/A	N/A	4	3	3	3	3
On-site resolutions	N/A	N/A	N/A	5	4	4	4
Referrals to Enforcement	N/A	N/A	N/A	1	1	1	1
Recovery for investors - both IC and IA ($ millions)	0.3	5.1	3.8	2.4	2.7	2.7	3.7
Permanent staff years	84.4	86.3	82.4	83.9	93.6	97.3	97.3

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	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
Public Utility Holding Company Regulation	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Review of filings								
Filings received	195		220		220		220	
Filings processed	193		241		241		220	
Examination of annual and periodic reports	882		882		882		882	
Administrative hearings	0		2		2		2	
Interpretive letters	85		85		85		85	
Notices and orders	327		350		350		400	
Rulemaking and special projects	2		2		1		1	
Service company inspections	2		1		1		1	
Permanent staff years		13		13		13		13

Legal Services

Program Summary

Organizations	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Staff Years	Cost (000)	Staff Years	Cost (000)	Staff Years	Cost (000)	Staff Years	Cost (000)
General Counsel	85.2		82.2		85.2		85.2	
Opinions and Review	5.6		6.0		6.0		6.0	
Administrative Law Judges	7.0		7.0		7.0		7.0	
Corporate Reorganization (field offices)	22.7		21.6		22.3		22.3	
Sub-Total, Salaries and Benefits	120.5	$5,411	116.8	$5,371	120.5	$5,542	120.5	$5,592
Non-Personnel Expenses		1,453		1,360		1,490		1,427
Total Program Cost		$6,864		$6,731		$7,032		$7,019

The mission of Legal Services is to provide legal and policy advice to the Commission and represent the Commission in various types of litigation, including all appellate matters in the federal courts involving the SEC, all actions in which the SEC or its members or employees are defendants, and certain administrative adjudications. New legal precedents, the realignment of the financial services industry, the increase in activity of the Prevention and Suppression of Fraud Program, and the growing volume of bankruptcy filings of large, public companies are critical factors affecting the workload of Legal Services personnel.

In 1986, the appropriation would allow the General Counsel's staff to continue to handle the large volume of litigation generated by the Commission's enforcement program, the expanded number of disciplinary proceedings against lawyers and accountants, the increased volume of suits against the Commission and the large number of actions to enjoin investigations. The 1986 appropriations would permit the staff to open 150 litigation actions. The advisory services staff will respond to 148 requests and undertake 121 legal projects. Resources would permit regional staff, under the direction of the General Counsel, to appear in 50 new reorganization cases and monitor another 100 cases. The staff would also review the disclosure statements involving the issuance of securities filed in about 240 reorganization cases and express comments on about 175 other cases. The Administrative Law Judges could expect to dispose of 115 administrative proceedings annually. The Office of Opinions and Review expects to handle 24 cases requiring full opinions, a 20% increase over 1985.

Gramm-Rudman-Hollings: The reduction in the General Counsel's staff will affect the litigation and advisory services areas. The staff will open 5% fewer cases and the volume of legal assistance provided to the agency will decline 9%. The decrease in Corporate Reorganization will reduce by 10% the number of reorganization cases in which the staff appears. The number of disclosure statements receiving comment will drop 4%. Administrative Proceedings will not be affected by the cut.

With the 1987 request, the General Counsel will open and close approximately 150 cases, a 6% increase over 1986 Gramm-Rudman-Hollings. Corporate Reorganization staff will appear in 50 reorganization cases and monitor another 100 cases. The Administrative Law Judges expect to dispose of 115 administrative proceedings. The Office of Opinions and Review expects to handle 26 cases.

Legal Services

Mission

The Legal Services program furnishes legal and adjudicatory services to the Commission and its staff on a wide variety of matters. Personnel also participate in selected bankruptcy reorganization cases to protect the interests of public investors. These services are provided by the regional offices and the Offices of the General Counsel, Administrative Law Judges, and Opinions and Review.

General Counsel: The Office of the General Counsel is active in three major areas - litigation, legislation, and advisory services.

Litigation activities consist of three elements. 1) The office staff coordinates District Court prosecutions brought by the Division of Enforcement and the regional offices. These cases are reviewed by the General Counsel for consistent application of Commission policies. The staff also defends the Commission in civil actions brought against the Commission, its members and staff. The successful defense of actions against the Commission and its staff is essential to fulfill the SEC's enforcement mandate as it prevents personnel from being coerced or distracted from their investigatory responsibilities. 2) The staff conducts all SEC litigation in the U.S. Courts of Appeals and the Supreme Court. 3) The staff prosecutes administrative proceedings relating to the disqualification of professionals who practice before the Commission.

The General Counsel is also responsible for the substance of the Commission's legislative program. The office works closely with Congressional staff, developing position papers, performing legal research, producing testimony, and drafting bills.

The office provides advisory services to the Commission and the staff on regulatory and enforcement matters under the Securities Acts. This work ensures consistent legal and policy positions. The General Counsel also administers non-SEC statutes such as the Freedom of Information Act (FOIA), Privacy Act, Right to Financial Privacy Act, Government in the Sunshine Act, and Ethics in Government Act as well as the Commission's ethical conduct program. Finally, the office is responsible for a wide variety of special legal and policy projects initiated at the request of the Chairman or the Commissioners.

Corporate Reorganization: The Office of the General Counsel manages the Commission's bankruptcy program. Regional office staff participate in selected cases to protect the interests of public investors holding securities of corporations which have sought protection under the Bankruptcy Code. The Commission's bankruptcy program focuses principally on issues likely to involve important legal precedent and issues relating to the Commission's other responsibilities, such as adequacy of disclosure, issuance and resale of securities, and law enforcement matters. Staff also review disclosure statements that are used to inform investors of reorganization plans. These plans often include the issuance of large amounts of new securities to creditors and shareholders in exchange for their claims or interests in the debtor. The review is intended to ensure adequate disclosure in order to prevent fraud in the offer and sale of these securities.

Administrative Proceedings: The Office of Administrative Law Judges schedules hearings following the institution of administrative proceedings, and the judges make decisions on ultimate issues and interlocutory matters. The Office of Opinions and Review prepares draft opinions and orders for the Commission in administrative proceedings that the Commission institutes and in disciplinary actions taken by self-regulatory organizations (such as the stock exchanges) that are appealed to the Commission.

Program Environment

General Counsel: The activity levels of other programs (especially Prevention and Suppression of Fraud) largely control the General Counsel's litigation workload. It is anticipated that high levels of SEC enforcement activity will continue to generate a substantial case load for the Legal Services Program. While the total number of cases opened and closed remained fairly constant from 1984 to 1985, the number of Supreme Court cases increased by 50%. The General Counsel devotes considerable time to prepare those cases considered by the Supreme Court because of their importance and difficulty.

Changes now being debated in Congress such as the Vice President's Task Group on Regulation of Financial Services, banking and tender offer legislation, and amendments to the Racketeer Influence and Corrupt Organizations Act will generate a heavy workload for legislative and advisory services activities. The advisory services provided to the Commission bring a broader perspective as well as greater consistency to enforcement and regulatory decisions that are necessarily made on a case-by-case basis.

Corporate Reorganization: The Commission is not active on a daily basis in reorganization proceedings where public investors are adequately represented. In appropriate cases, the Commission seeks the appointment of a committee to ensure adequate representation of investors. Thereafter, the SEC limits its involvement to legal issues involving important legal precedent or affecting the Commission's other functions. These issues include the provision of adequate information in disclosure statements soliciting the votes of investors concerning a reorganization plan and law enforcement matters including enforcing compliance with the Securities Act registration provisions for securities issued in a plan. The number of bankruptcy filings among large public companies climbed from 88 in 1984 to 138 in 1985. The total number of reorganization cases in which the Commission participates is expected to increase in 1986 and 1987 by 18% and 36%, respectively.

Administrative Proceedings: The institution of administrative proceedings is strongly dependent upon the activities of the Prevention and Suppression of Fraud Program. The number of proceedings instituted increased 10% from 1984 to 1985. The workload of the Office of Opinions and Review has also increased due to the increased number of administrative proceedings instituted.

1985 Program Evaluation

General Counsel: The litigation activities of the Office of the General Counsel produced notable results in 1985. The magnitude of fraud or other misconduct involved in cases handled by the office exceeded $100 million. The staff prevailed in over 90% of the litigation it handled.

The General Counsel filed briefs and presented oral argument on critical issues including:

- the coverage of the antifraud provisions of the securities laws, including the scope of the prohibition against insider trading,
- the definition of an unconventional tender offer,
- the definition of a security (the cornerstone of the Commission's jurisdiction),
- the coverage of the registration requirements of the Securities Act,
- the broker-dealer customer protection requirements,
- the availability and scope of private remedies for violations of the securities laws,
- court orders for criminal contempt, and
- the coverage of the Investment Advisers Act.

Major cases included Bateman Eichler, Hill Richards, Inc. v. Berner in which the Supreme Court agreed with the Commission that brokerage firms may not defraud their customers and the customers are not deprived of their right to obtain damages for fraud simply because they traded on what a securities salesman fraudulently induced them to believe was inside information. In two other significant cases, Landreth Timber Co. v. Landreth and Gould v. Ruefenacht, the Supreme Court concurred with the Commission that the antifraud protections of securities laws are available to persons who are defrauded in transactions involving the sale of a controlling stock interest in a corporation. The Office of the General Counsel also represented the SEC at the trial and appellate levels in numerous suits brought under federal administrative statutes seeking to thwart SEC law enforcement activities. Finally, staff handled an increased volume of proceedings against lawyers and accountants who practice before the Commission.

The General Counsel's staff also performed substantive work for the SEC's legislative program. Staff were involved in drafting testimony or legislation for submission to Congress on a number of important issues including tender offer reform, financial institutions reform, government securities regulation, transfer agent regulation, activities of the accounting profession, shareholder communications, and the recommendations of the Vice President's Task Group on the Regulation of Financial Services.

The Office of the General Counsel's advisory services staff ensured that matters submitted to the Commission, including enforcement and rulemaking proposals, were consistent with applicable court decisions and Commission legal and policy determinations. The advisory staff's significant projects included participating in the Vice President's Task Group on Regulation of Financial Services, conducting analyses of Commission rulemaking authority, reviewing sanctions in Commission injunctive actions and administrative proceedings, analyzing re-entry procedures for broker-dealers who were expelled from the securities business, and responding to interpretive questions under the Insider Trading Sanctions Act. In light of the increasing internationalization of the capital markets, the advisory staff also prepared detailed comments on the proposed revisions to the American Law Institute's Restatement of Foreign Relations law.

Corporate Reorganization: The General Counsel directed regional staff participation in 53 cases involving debtors with assets of $6.1 billion and 165,000 public investors. The Commission moved for or supported the appointment of committees to represent public investors in 12 of these cases. The Commission also filed appearances in two Chapter 7 liquidation proceedings of government securities broker-dealers with assets in excess of $30 million. The staff commented on inadequate disclosure statements relating to reorganization plans in 168 cases and also moved to prevent an illegal public securities offering in one of these cases. In addition, the staff participated in judicial consideration of numerous issues of law that have broad impact upon the rights of public investors.

Administrative Proceedings: During 1985, 116 proceedings were instituted before the administrative law judges. Hearings were scheduled within an average of 30 days and initial decisions rendered within 30 days of the conclusion of the hearing. In one of these proceedings, a registered broker-dealer and nine individuals associated with it were charged with fraud in connection with purported sales of certificates guaranteed by the Government National Mortgage Association, a federal agency, which caused investor losses of approximately $12,000,000. Consequently, the registration of the broker-dealer was terminated, eight of the individuals were either barred or suspended, and action against the ninth is under consideration. The Office of Opinions and Review personnel completed drafts of full opinions in 20 cases, and 42 draft orders on motions and petitions.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

General Counsel: The Office of the General Counsel expects litigation activity to remain high in 1986. For example, as a result of enforcement recommendations, the number of disciplinary proceedings against attorneys and accountants is increasing. Two other areas where the volume of litigation will increase are suits against the Commission and suits to enjoin investigations. Additionally, the Supreme Court's insider trading decisions left unresolved several issues that will continue to generate significant litigation. Finally, the Commission's emphasis on the enforcement program could result in a rise in appellate cases handled by the General Counsel. With the resources provided by the 1986 appropriation the staff would open 150 cases and close 150 others.

Rapid developments in the financial services industry and in contested corporate takeovers will continue to make demands on the office's legislative function. In particular, the office expects to devote considerable resources to handle legislative proposals regarding regulation of government securities markets and proposals to alter the regulation of the financial services industry. Moreover, in the area of corporate takeovers, the Commission must monitor and react to rapidly evolving business practices and legislative initiatives. Any legislation that is enacted in these areas would lead to significant expenditure of staff time, particularly to respond to interpretive requests. The 1986 appropriation would allow the staff to prepare testimony on 22 issues and analyze 14 legislative proposals.

The 1986 appropriation would allow the advisory services staff to continue to provide a high level of assistance to the staff and the Commission on such issues as the business, regulatory, and litigation implications of functional regulation of financial services. The office would also assist the Commission in its reviews of the Investment Company Act, Investment Advisers Act, Public Utility Holding Company Act regulations, and the Commission's Rules of Practice. The staff would be able to study the ALI's Corporate Governance project to determine its impact on Commission functions. The staff would handle the novel questions generated by the expanded authority to proceed administratively on proxy and tender offer violations as well as recent tender offer reforms. Finally, the advisory staff would spend considerable time analyzing issues raised by the increasing number of enforcement actions against accountants and attorneys. At the funding level provided by the 1986 appropriation, the staff would generate 73 calendar memoranda, respond to 148 requests for assistance and undertake 121 legal projects.

Corporate Reorganization: The staff would continue to focus on bankruptcy issues likely to involve important legal precedents or other key issues, such as the adequacy of disclosure, the issuance of securities and law enforcement matters. The staff would continue to be faced with a heavy caseload of bankruptcy filings of public companies. Overall, the 1986 appropriation would allow the staff to appear in 50 new cases, monitor another 100 new cases, and close 105 pending cases. Some 175 disclosure statements would receive staff comment.

Administrative Proceedings: It is anticipated that 120 new administrative proceedings would occur in 1986. The staff could dispose of 115 proceedings, expeditiously scheduling hearings and preparing initial decisions. The Office of Opinions and Review projects disposal of 24 cases requiring full opinions, a 20% increase over 1985.

Gramm-Rudman-Hollings

General Counsel: Gramm-Rudman-Hollings reductions will affect the litigation and advisory services activities of the General Counsel. With respect to litigation, the volume of cases opened by the staff will decline 5%, while the number of cases closed will drop 3%. These cases will primarily consist of amicus and appellate enforcement litigation. In the advisory area, the reduction will curtail the review given to the Commission's regulatory and enforcement efforts. The current level of review is important for ensuring policy consistency and adherence to recent court developments. General Counsel review also provides an objective analysis of the legal issues involved in cases and rulemaking.

Corporate Reorganization: The decrease in staff entailed by Gramm-Rudman-Hollings will reduce the number of cases in which the staff can appear by 10%. Further, there will be a 4% reduction in the number of disclosure statements receiving comment. As a consequence, the staff may not be able to identify certain issues of significance to public investors which would otherwise warrant Commission participation.

Administrative Proceedings: This activity will not be affected by the Gramm-Rudman-Hollings reductions.

1987 Program Request

General Counsel: It is anticipated that the Commission will deal with an array of complex enforcement and regulatory matters in 1987. The funding requested will allow the Office of the General Counsel to handle a high volume of litigation, opening approximately 150 cases. The staff will manage a heavy legislative workload generated by changes within the financial securities industry as well as changes in the industry's regulatory structure. The General Counsel will be able to provide the range of advisory services required by the Commission as it handles a calendar of increasingly complex issues. Despite the increasing volume and complexity of workload, this level of activity will be possible due to both productivity improvements and substantial amounts of uncompensated overtime donated by staff.

Corporate Reorganization: The funding requested will permit the staff to participate in 50 new proceedings and monitor another 100 cases. Also, staff will review and comment on 240 disclosure statements filed in the cases in which the SEC is involved.

Administrative Proceedings: The Administrative Law Judges will maintain their objective of scheduling hearings within 30 days from the order for proceedings and of rendering initial decisions within 30 days of the close of the hearing. The prompt completion of hearings and the timely issuance of initial opinions reduce costs for the parties involved and significantly enhance the deterrent effect of the enforcement program. The Office of Opinions and Review will complete 65% draft orders and 24% opinions, exceeding 1985 levels by 35% and 20% respectively.

Legal Services

Workload Data

Activity	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
GENERAL COUNSEL	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
Litigation Case Inventory								
Pending beginning of year	148		137		137		134	
Opened	148		142		150		150	
Closed	(159)		(145)		(150)		(150)	
Pending close of year	137		134		137		134	
Legislation								
Testimony	22		22		22		22	
Comments to Congress & Others	48		48		48		48	
Drafting & Technical Assistance	41		41		41		41	
Legislative Analysis	14 1/		14		14		14	
Other	23		23		23		23	
	148		148		148		148	
Advisory Services								
SEC Statutes								
Calendar Memoranda 2/	73		73		73		73	
Assistance to Others	148		135		148		148	
Office Projects	121		115		121		121	
Interagency Projects	18		17		18		18	
	360		340		360		360	
Non-SEC Statutes								
FOIA - Internal Appeals	106		106		106		106	
Confidential Treatment Requests	22		22		22		22	
RFPA Matters	9		9		9		9	
Conduct Regulation Matters	35		35		35		35	
Internal Investigations	18		18		18		18	
Other 3/	136		136		136		136	
	326		326		326		326	
		85.2		82.2		85.2		85.2

1/ The Office of Legislative Affairs now monitors and does preliminary analysis of many bills that the Office of the General Counsel previously prepared.

2/ Does not reflect comments included in memoranda submitted by other divisions as part of the advance review procedure.

3/ Includes matters involving Privacy Act, Procurement, EEO, Equal Access to Justice Act, Personnel, Fed. Advisory Committee Act, Federal Records Act, Paperwork Reduction Act, and other areas not easily classified separately.

Activity	FY 1985 Actual Work-load	FY 1985 Actual Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Work-load	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Appropriation Estimate Work-load	FY 1986 Appropriation Estimate Staff Years	FY 1987 Estimate Work-load	FY 1987 Estimate Staff Years
CORPORATE REORGANIZATION								
Petitions involving public investor interest	138		150		150		150	
Chapter 11 cases: appearances								
Pending beginning of year	64		88		88		103	
Filed	55 1/		45		50		50	
Closed	(31)		(30)		(30)		(30)	
Pending end of year	88		103		108		123	
Chapter 11 cases: monitoring								
Pending beginning of year	106		160		160		190	
Filed	85		105		100		100	
Closed	(31)		(75)		(75)		(75)	
Pending end of year	160		190		185		215	
Disclosure statements reviewed (both appearances and monitored cases)	228		240		240		240	
Disclosure statements commented on (both appearances and monitored cases)	168		168		175		175	
		22.7		21.6		22.3		22.3

1/ Includes two appearances in Chapter 7 liquidations of government securities broker-dealers.

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	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
Activity	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
ADMINISTRATIVE PROCEEDINGS								
Office of Administrative Law Judges								
Proceedings Pending Beg. of Year	22		23		23		28	
Proceedings Instituted	116		120		120		120	
Proceedings Disposed of	(115)		(115)		(115)		(115)	
Proceedings Pending End of Year	23	7.0	28	7.0	28	7.0	33	7.0
Office of Opinions and Review								
Cases Pending Beginning of Year	13		13		13		14	
Cases Received	20		24		24		26	
Cases Completed	(20)		(23)		(23)		(24)	
Cases Pending End of Year	13		14		14		16	
Orders on Motions and Petitions	42		55		55		65	
Pre-Argument Memoranda	5		10		10		10	
		5.6		6.0		6.0		6.0
		12.6		13.0		13.0		13.0

Economic and Statistical Research

Program Summary

Organizations	FY 1985 Actual Staff Years	FY 1985 Actual Cost (000)	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Cost (000)	FY 1986 Appropriation Estimate Staff Years	FY 1986 Appropriation Estimate Cost (000)	FY 1987 Estimate Staff Years	FY 1987 Estimate Cost (000)
Chief Economist	7.3		7.3		7.3		7.3	
Economic and Policy Analysis	34.0		32.7		34.0		34.0	
Sub-Total Salaries and Benefits	41.3	$1,841	40.0	$1,765	41.3	$1,825	41.3	$1,841
Non-Personnel Expenses		479		463		503		481
Total Program Cost		$2,320		$2,228		$2,328		$2,322

The Economic and Statistical Research Program provides the Commission and the operating divisions with an objective economic perspective and the technical support required to understand and evaluate the economic aspect of SEC regulation. Changes in the marketplace have increased the number and complexity of economic issues coming before the Commission. The entry of banks into the securities industry, the application of new technology within the industry, the growth in new financial products, and the introduction of increasingly more sophisticated financial strategies (such as those used to effect or repel tender offers) have complicated the economic analysis of the impact of SEC regulations. Moreover, the development of new, complex market structures and trading systems (such as the standardized options market proposed by the National Association of Securities Dealers) is increasing the need for the staff to provide the Commission with the economic analysis required to ensure appropriate regulatory responses.

During 1985, the staff conducted 89 rule reviews, covering the full range of the Commission's regulatory programs, prepared 425 written responses to technical and data inquiries, and responded to 340 requests for economic advice. Program personnel also reviewed 24 Regulatory Flexibility Act (RFA) certifications and 33 RFA analyses. Forty data bases were developed and maintained.

The 1986 appropriation would permit the economics staff to complete 90 rule reviews, and evaluate 35 RFA analyses and 25 RFA certifications. Moreover, program personnel would respond to 340 requests for economic advice and 425 requests for data and technical assistance.

Gramm-Rudman-Hollings: The Gramm-Rudman-Hollings reductions will decrease the number of rule reviews and the level of economic advice and technical assistance prepared by program staff by 6 percent, increasing the likelihood that rules may be adopted that are not cost effective and that may have an undesired impact on the industry. Further, the number of programs to monitor the impact of SEC rules will drop by 15.4 percent.

The 1987 budget request will permit the economics staff to provide the Commission and its staff with the analysis and technical support demanded by a dynamic marketplace. Program personnel will provide in-depth assistance on a wide variety of critical corporate control and tender offer topics, including leverage buyouts, junk bond financing, and differential voting rights. Such significant market issues as the impact of multiple trading on the cost of transacting in equity options will also be studied. In all, the staff will complete 95 rule reviews, respond to 340 requests for advice and technical assitance, and issue 90 reports and memoranda.

Economic and Statistical Research

Mission

The goal of the Economic and Statistical Research Program is to provide the SEC with an objective economic perspective and the technical support to evaluate the economic effects of Commisison regulation. This program is carried out by the Office of the Chief Economist (OCE) and the Directorate of Economic and Policy Analysis (DEPA) through a three-step process.

Liaison, Planning, and Review: Staff of OCE and DEPA meet regularly with the operating divisions to determine which regulatory issues, programs, or policies are suitable for economic analysis and to plan for the data collection needed. Further, OCE initiates contacts with economists outside the SEC. In government, industry, and the academic world, the economics staff gathers relevant information, plans and coordinates studies, and disseminates information regarding Commission policies. DEPA reviews every rule proposal before it is submitted to the Commission to assess the proposal effect on small entities, as required by the Regulatory Flexibility Act (RFA) and Section 502 of the Small Business Investment Incentive Act. OCE and DEPA also analyze rule proposals for their impact on competition within the securities industry and among competing securities markets, as required by the 1975 amendments to the Securities Exchange Act of 1934. The staff also attempts to identify the most cost-effective means of achieving the particular regulatory objective intended. Finally, where issues are particularly significant or effects uncertain, DEPA will develop and implement a program to monitor the proposed rule after its adoption.

Data Collection and Analysis: DEPA collects and maintains an array of data relating to the financial services industry and the larger economy. The creation and maintenance of accurate data bases are essential to the quality and effectiveness of staff studies and analyses. Using these data bases, OCE and DEPA employ the various tools of economic analysis to assess the impact of the rules and policy decisions on the securities markets and the capital formation process.

Economic Advice, Reports, and Technical Assistance: OCE and DEPA provide the Commission with economic analyses of proposed rule changes, current or proposed policies, and capital market issues. Advice on rulemaking is primarily intended to ensure that a rule's benefits exceed its costs. After completing a study, the staff may recommend that a rule not be adopted, that a rule be delayed for further study, or that a modified rule be approved. Advice on policy is designed to address such issues as whether or not the policy will accomplish its objectives, what benefits it will produce, and what costs will accompany those benefits. Advice on capital market questions enables the SEC to determine more clearly its role in influencing the nation's financial markets. Upon request, OCE or DEPA provides any further professional advice and technical support needed by the divisions. In addition, DEPA disseminates data through press releases, the SEC Monthly Statistical Review, and other government publications. These data are used in the Commission's Annual Report to Congress and the Economic Report of the President.

Program Environment

There are several external and internal developments which are increasing both the volume and complexity of the work of the Economic and Statistical Research Program. For example, within the SEC and throughout the federal government, there has been an increased sensitivity to the economic burdens imposed by regulation. The SEC is firmly committed to the goal of reducing regulatory burdens on legitimate business activity while maintaining a high level of investor protection. Achieving this goal requires a substantial amount of economic guidance to ensure that any policies or rules adopted will reach their objectives in a cost-effective manner. Since its staff has no conflicting responsibility for the development or maintenance of the agency's rules, the Economic and Statistical Research Program is in a unique position to provide the necessary objective economic perspective on the policies and rules promulgated by SEC divisions and offices.

Changes in the marketplace have increased the number and complexity of economic issues coming before the Commission. The convergence of the financial services industry, the internationalization of the securities markets, the application of new technology within the industry, the growth in new financial products, and the increasingly sophisticated financial strategies, such as those employed to effect or repel tender offers, have greatly complicated this program's task of analyzing the impact of SEC regulations.

New and more complex market structures and trading systems are evolving, increasing the need for economic analysis. For example, the National Association of Securities Dealers (NASD) and five exchanges were recently granted authority to establish a standardized options market for certain NASDAQ 1/ securities (NASDAQ Options). As a result, a new market structure could evolve in which side-by-side trading or integrated market making in both the option and the underlying equity security plays an important role. In addition, because competing market centers are now permitted to trade options on the same underlying NASDAQ security in a competitive framework, significant changes in the market structure for options could also result. As the trading environment changes, the economics staff will assist the Commission in assessing the impact of these policy decisions on the efficiency and structure of the markets.

A number of developments will affect Commission regulation and require in-depth economic analysis as new rules and policies are adopted. The Administration and Congress have been examining the regulation of financial services, including such topics as the restraints imposed by the Glass-Steagall Act, the advantages and disadvantages of functional regulation, and the several approaches to reframing the current regulatory structure. The staff will provide advice and guidance to the Commission as it grapples with anticipated regulatory changes, taking into account the practical economic consequences of new regulatory structures on the industry and its various participants.

In the important area of tender offers, Congress is presently considering proposals to regulate takeover activity as well as the anti-takeover practices of corporate management. These proposals could have far-reaching effects on

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1/ National Association of Securities Dealers' Automated Quotations System.

shareholders as well as corporate America. In the meantime, the Commission is advancing its own review of takeover rules. The economics staff has been called upon to examine the economic impact of corporate takeover regulation.

1985 Program Evaluation

The Economic and Statistical Research Program reviewed 89 rules, encompassing the full range of the Commission's regulatory program. In addition, program personnel reviewed 33 RFA analyses and 24 RFA certifications, and provided advice, technical assistance, and empirical analysis of some 340 issues of concern to the Commission and its operating divisions. Also, 13 monitoring programs were developed or maintained to study the implementation of major rules, new trading facilities, or program changes instituted by self-regulatory organizations. The staff created or maintained 40 computerized data bases necessary to issue analysis, prepared 425 written responses to technical and data inquiries, and published the SEC Monthly Statistical Review.

The staff also published a comprehensive study of the financing and regulatory capital needs of the securities industry. This study was prepared in conjunction with a concept release in which the Commission requested public comment on a broad range of regulatory policy issues regarding the net capital and other financial responsibility rules for broker-dealers. The staff analyzed rule proposals concerning the concentration of customers' margin debits held by broker-dealers and prepared an analysis of the costs and benefits of alternative approaches to regulating U.S. government securities dealers. In conjunction with the Division of Market Regulation, a release was prepared seeking comment on the effectiveness and cost of maintaining rule 15c2-11, which requires market-makers in non-NASDAQ, over-the-counter securities to obtain and maintain certain information about the issuers.

A number of approaches to regulating the options and equities markets were analyzed in order to assess their impact on the operational efficiency of the markets. In particular, the economics staff analyzed proposals by the NASD and certain exchanges to establish a standardized options market on NASDAQ-traded securities. The analysis focused on the efficacy of side-by-side trading in the options and underlying securities, and on the market structure issues associated with establishing a competitive trading system for options on these NASDAQ-traded securities. The staff also prepared analyses of proposals to permit unlisted trading privileges on exchanges with respect to NASDAQ-securities and studied the NASD proposal to make all National List securities (NASDAQ securities quoted daily in newspaper listings) eligible for National Market System designations. In addition, reports were prepared which assessed the competitive and regulatory factors affecting the structure of our nation's equity markets.

Program staff organized the Economic Forum on Tender Offers, in which leading experts from academia and business aired their views in a public meeting of the Commission; the staff also produced three major studies in the corporate control/tender offer area. One of those evaluated the relationships between institutional ownership, tender offers, and long term investments. Another was an economic analysis of any-or-all, partial, and two-tier tender offers. The third study dealt with the economic impact of anti-takeover charter amendments.

Two studies were completed on policy issues related to corporate registrants. The staff undertook a cost/benefit analysis of a proposal which requires quarterly reporting of sales and net profits by the business segments of corporate issuers operating in multiple lines of business. In the other study, rules affecting shareholder resales or restricted securities were examined to determine if less complex rules could be developed that would encourage capital formation in a more cost-effective way while maintaining necessary protection to investors.

In the area of investment management regulation, program personnel completed a study related to the statutory requirement which states that investment company shares can only be sold at a price stated in the prospectus. This study examined the shift from a market completely dominated by funds sold by commissioned salesmen to one in which the majority of funds are offered to investors without a sales charge.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

The funding provided by the 1986 appropriation would permit the program staff to supply the Commission and the divisions and offices with the level of technical advice required to maintain an effective regulatory program. The economics staff would have the resources to review 90 rules and evaluate 60 certifications and analyses required by the RFA. Forty data bases would be developed and maintained in order to provide an empirical framework for sound policy decisions and to disseminate information to the public on the operations of the nation's capital markets. Finally, the economics staff would also respond to 340 requests for economic advice and prepare 425 written responses to requests for technical assistance and data.

The 1986 appropriation would provide the resources for the staff to conduct a number of key studies. For example, the staff would analyze economic and regulatory issues associated with the operation of a pilot automatic execution system in options and proposals to amend the short sale rule and exchange rules that currently prohibit specialists from engaging in certain activities involving their specialty issues. Program personnel would develop specific proposals to better harmonize provisions of the Commission's net capital and reserve/segregation rules which include the development of uniform capital requirements, or haircuts on equity securities. The staff would also develop programs to evaluate recently approved changes in the markets for options and equity securities in order to monitor the evolving structure, efficiency and operation of those markets.

Two studies would focus on policy issues related to corporate shareholders. These would include an analysis of all recent proxy contests and the factors that led to successful challenges of corporate management and a study to determine if more cost-effective proxy rules could be developed to permit proxy battles to become a viable alternative to tender offers in influencing corporate managements. The staff would continue to examine the impact upon the integrated disclosure system of the Financial Executive Institute's development of abbreviated disclosure documents for shareholders.

Gramm-Rudman-Hollings

At the reduced level of funding provided by Gramm-Rudman-Hollings, the number of rules reviewed by the staff will drop six percent, increasing the possibility that rules might be adopted that would have adverse economic impacts on the markets. Efforts to monitor the impact of major rules such as the integrated disclosure system will be reduced. Overall, the number of monitoring programs will decrease by 15.4 percent. Also, economic input to the Commission and the staff on important regulatory matters will be cut. Economic advice and technical assistance provided by the staff will drop six percent. There will be a three percent decline in the number of data bases maintained by program personnel.

1987 Program Request

The funding requested in 1987 will permit the staff to complete 95 reviews of Commission rules and rule proposals, thereby accelerating agency initiatives to achieve the most cost-effective means of reaching its regulatory objective. The program will have the resources to provide a high level of economic advice to the Commission and the divisions and offices. Some 340 requests for technical assistance will be met, while 425 written responses for data and other economic advice will be prepared. The staff will develop and maintain 40 primary and subsidiary data bases.

With the 1987 request, the program personnel will complete a number of studies of significant issues in the area of corporate acquisitions. Issues to be covered include: the impact of leveraged buyouts, the consequences of using junk bonds in tender offers, the economic effects of takeover defenses and the ensuing benefits to bidding company shareholders, the impact of corporate takeovers on long run productivity and growth, the pressures placed on investors to tender in hostile takeovers, the use of earnings forecasts in analyzing takeover activity, and the consequences of "inside" and "rumor" trading preceeding formal announcements of corporate control transactions.

Other studies in 1987 will analyze the impact of differential voting privileges in corporate stock and the importance of exchange listing standards with respect to voting rights. Models of asymmetric information which analyze discrepancies between insider and public information and the overall dynamics of securities pricing will also be examined. Also, the impacts of multiple trading upon the cost of transacting in equity options will be evaluated.

In the area of investment mangement regulation, the economics staff will complete two comprehensive studies. One study will examine the use of fund assets in the distribution of mutual fund shares and the resulting effects of this practice on broker-dealers and fund shareholders. Similarly, the use of sales loads in fund distributions will be studied with emphasis placed on the relationship between fund performance and sales. Both studies should clarify recent developments concerning the increased number and size of mutual fund compensation programs.

Workload Data

Activity	FY 1985 Actual Work-load	FY 1985 Actual Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Work-load	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Appropriation Estimate Work-load	FY 1986 Appropriation Estimate Staff Years	FY 1987 Estimate Work-load	FY 1987 Estimate Staff Years
LIAISON, PLANNING AND REVIEW								
Rule reviews	89		85		90		95	
Economic advice and technical assistance	340		320		340		340	
RFA certifications reviewed	24		25		25		25	
RFA analyses reviewed	33		35		35		35	
Monitoring programs	13		11		13		13	
		11.8		11.1		11.8		11.8
DATA COLLECTION AND ANALYSIS								
Data bases (primary and subsidiary)	40		39		40		40	
Data compilations/analyses	145		142		145		145	
		15.1		14.8		15.1		15.1
ECONOMIC ADVICE, REPORTS AND TECHNICAL ASSISTANCE								
Commission memoranda, reports and publications	90		88		90		90	
Advisory memoranda and data inquiries:								
Written responses	425		416		425		425	
Oral responses	1,870		1,830		1,870		1,870	
		14.4		14.1		14.4		14.4
Permanent Staff Years		41.3		40.0		41.3		41.3

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Program Direction

Program Summary

Organizations	FY 1985 Actual Staff Years	FY 1985 Actual Cost (000)	FY 1986 Gramm-Rudman Hollings Estimate Staff Years	FY 1986 Gramm-Rudman Hollings Estimate Cost (000)	FY 1986 Appropriation Estimate Staff Years	FY 1986 Appropriation Estimate Cost (000)	FY 1987 Estimate Staff Years	FY 1987 Estimate Cost (000)
Executive Staff	33.0		36.2		37.3		37.3	
Executive Director	15.2		13.9		14.3		14.3	
Secretary	19.8		18.7		19.3		19.3	
Public Affairs	6.7		7.2		7.4		7.4	
Comptroller	27.2		27.5		28.4		28.4	
Information Systems Management (ISM)	60.7		62.6		64.6		64.6	
Personnel	26.1		27.5		28.4		28.4	
Administrative Services	61.1		61.0		62.9		62.9	
Subtotal,	249.8		254.6		262.6		262.6	
Salaries and Benefits		$ 8,890		$ 9,190		$ 9,560		$ 9,654
Non-Personnel Expenses		2,926		2,991		3,168		3,029
Total Program Costs		$11,816		$12,181		$12,728		$12,683

The mission of Program Direction is to communicate and implement the Commission's policies, and to manage its resources in an efficient and effective manner. The program's workload is increasing due to the growing size and complexity of the securities markets, convergence within the financial services industry, and the internationalization of capital markets.

In 1986, the agency's appropriation would provide the resources for the Commission to conduct 140 meetings to consider 655 items. The Secretary would issue 2,800 releases and 12,942 official orders, the Executive Director would complete 84 management improvement projects, and Public Affairs staff would respond to 68,060 requests for information. The Comptroller would process 6,900 travel vouchers and 12,800 invoices, while ISM staff could create/enhance five new information systems and maintain 72 existing systems. Personnel staff would conduct 300 position management reviews and train 1,550 staff. Administrative Services would complete 1,283 procurement actions, and printing plant production would reach 50.7 million pages.

Gramm-Rudman-Hollings: The Gramm-Rudman-Hollings cuts will reduce the size of the SEC staff and, therefore, the number of items prepared for Commission action. Consequently, the number of Commission meetings will drop from 140 to 135 or 4%, generating a similar reduction in the number of releases and orders issued by the Secretary. The Executive Director's staff will complete 4% fewer management studies. The Comptroller will process 3% fewer vouchers and invoices. Development of new information systems in ISM will be reduced 20%. Personnel staff will perform 20% fewer position reviews as compared to the 1986 appropriation level. Finally, printing production will decline 4%.

With the 1987 funding request, the Commission will conduct 140 meetings to consider 655 items. The Secretary will prepare 2,800 releases and 12,942 orders. The Office of the Executive Director will complete 84 management improvement projects. Public Affairs staff will respond to approximately 68,000 requests for information. The Comptroller will continue to process payroll documents, travel vouchers and provide all of the other financial support activities required by the agency. ISM staff will create/enhance 5 new information systems and maintain 72 existing systems. Personnel will conduct 300 position management and 14 program reviews. Administrative Services staff will complete 1,300 procurement actions and printing plant production will reach 50.7 million pages.

Program Direction

Mission

The goal of Program Direction is to communicate and implement the Commission's policies and manage its resources thereby fulfilling the Commission's statutory responsibilities effectively and efficiently.

Program Direction consists of two major functions. The first, policy management, is performed by the Executive Staff (Commission members and their staffs and the Offices of Legislative Affairs and Internal Audit), the Executive Directors's Office (which includes the Office of Equal Employment Opportunity), the Office of the Secretary, and the Office of Public Affairs. This function encompasses policy formulation, information dissemination, and management of the agency's resources. The second function, administrative support, is performed by the Offices of the Comptroller, Information Systems Management (ISM), Personnel, and Administrative Services. These offices supply the financial, data processing, staffing, and logistic services necessary to support the agency's work.

Policy Management: The Executive Staff develops overall SEC policy and advises the Commission on the array of legal, financial and economic problems encountered in the administration of the federal securities laws. The staff analyzes and reports on all rule proposals, enforcement actions and other matters submitted by the SEC's operating divisions and offices. The staff is also responsible for legislative liaison and internal audit functions.

The Executive Director's Office promotes the efficiency and effectiveness of SEC programs by enhancing internal management. The office also formulates budget strategy, supervises the allocation of agency resources, oversees the development and use of the agency's computerized information systems, manages the administrative support offices, coordinates regional office operations, and oversees the agency's EEO program.

The Secretary's Office schedules Commission meetings, prepares and maintains minutes of Commission actions, and conducts research for Commissioners and their staffs. The office publishes official documents and releases of Commission actions in the Federal Register, monitors compliance with the Regulatory Flexibility Act, and administers the requirements of the Freedom of Information (FOIA) and Government in the Sunshine Acts. The Secretary also operates the SEC's library.

The Office of Public Affairs communicates the Commission's policies and actions to the news media and the public, disseminates information regarding SEC activities, and prepares and distributes educational materials to investors.

Administrative Support: The Comptroller's Office provides financial and budget control to ensure that funds are received, accounted for, and disbursed in conformance with SEC and other federal guidelines. These services include payroll maintenance, cash management, accounting, voucher auditing, and budget formulation and execution.

The Office of Information Systems Management manages the SEC's data processing activities. This includes development of new information systems, maintenance and enhancement of existing systems, and operation and maintenance of computer and telecommunications hardware and software.

The Personnel Office develops and implements programs for effective management of the SEC staff. These programs encompass recruiting, training, position classification, labor relations, employee counseling and records maintenance.

The Office of Administrative Services provides a wide range of logistic and office support services including procurement, contract administration, supply and space management, mail receipt and distribution, transportation, safety programs, emergency preparedness, security, and printing and graphic services.

Program Environment

Policy Management: The nation's financial markets continue to experience unprecedented change, confronting the Commission with an array of significant legal, financial and economic issues. Complex financial instruments, such as futures and options on debt instruments and market indices are proliferating in the highly competitive and resourceful securities industry. Longstanding distinctions between securities firms and depository institutions are disappearing. There is increasing demand for restructuring the regulation of the financial services industry. Critical developments in the financial markets, such as innovative strategies to effect and repel tender offers and trading in government securities, have called for immediate response from the financial regulators. Finally, the markets which the Commission regulates have become international in scope. All of these developments have and will continue to generate a heavy workload for the Executive Staff, which provides legal and policy analysis to ensure that the Commissioners are advised of the impact of their decisions on investors and the industry.

The SEC must efficiently manage its resources to meet the combined challenges of resource restrictions and a growing workload. This need is particularly acute in the wake of the Gramm-Rudman bill. To improve productivity, the staff has implemented a coordinated program of technological innovation and careful management oversight. The Executive Director's Office, together with its subordinate administrative support offices, continues to lead this effort. Through the work of these offices, the Commission continues to excel in adapting high technology to traditional management responsibilities. The Commission also continues to be an active participant in government-wide initiatives designed to reduce waste, improve budgetary practices, and restrain administrative costs.

The Office of the Secretary has continued its traditional responsibilities of scheduling significant matters for Commission consideration, preparing documents for publication in the Federal Register, and processing all orders issued by the Commission. The SEC's library is faced with a growing number of research requests from the staff as well as an increase in the number of publications to be sorted, catalogued and disseminated.

As a result of the Commission's aggressive enforcement program, the Office of Public Affairs has had to handle a large number of public and media inquiries regarding SEC regulations and enforcement cases. In addition, changes in the financial services industry and initiatives to revise its regulatory structure have increased the complexity and sensitivity of the Commission's policy enunciations, requiring greater attention by the Public Affairs staff.

Administrative Support: In support of the Administration's Reform 88 initiative, the Comptroller's Office has continued to improve and integrate the Commission's diverse financial and accounting systems. The OMB has recognized the Commission's achievement in this area by designating the SEC system as a source for small agencies to use in meeting their payroll and other accounting needs. While the trend toward shared systems will produce an overall savings to the government, the Commission will have to accommodate the needs of a growing number of client agencies.

The Commission continues to emphasize technology as a means of achieving greater efficiency and productivity. Under its Productivity Improvement by Computer (PIC) initiative, state-of-the-art computer technology has been introduced into virtually all program areas. This effort is designed to achieve a fully automated workplace to accompany the operational electronic filing system, Edgar.

In the Gramm-Rudman-Hollings budget environment, the Commission must efficiently manage its personnel resources. A system of comprehensive job review has been implemented to improve position management throughout the SEC. Renewed efforts will be required, however, to ensure staffing efficiencies, prevent "grade creep," and better train the staff in diverse technical and substantive areas.

With growing resource restrictions, the Office of Administrative Services is implementing programs to achieve space reductions, improve property management, and achieve savings in procurement.

1985 Program Evaluation

The Commission held 130 meetings to consider 600 rule proposals, enforcement actions, and other matters. A number of important issues affecting the structure and operation of the securities industry and investor protection were addressed. Among these were: whether to adopt a rule to govern the securities activities of commercial banks, the propriety of regulating certain corporate control transactions, expansion of the National Market System, the regulation of international securities trading, and proposals to regulate government securities. The Commission also considered a number of significant enforcement issues in cases involving regulation of investment adviser newsletters, insider trading, and trading in government securities.

There was a high level of interaction between the Congress and the SEC in 1985, as Commissioners and staff testified 23 times before congressional committees regarding issues of major importance. The topics included tender offer practices, regulation of the government securities market, accounting practices, the Edgar system, and the coordination of federal regulation of financial services.

The newly created Office of Internal Audit (OIA) became fully operational during 1985. The office played an important role in coordinating the Commission's financial integrity and internal control activities. The staff completed an audit of the Commission's imprest fund and a financial and compliance audit of its new payroll system. Office personnel also established a computerized audit recommendation tracking system to ensure adequate follow-up of audit recommendations. Finally, the OIA staff established a liaison with the General Accounting Office and became an active participant in the Coordinating Conference of the President's Council on Efficiency and Integrity.

The Executive Director's Office continued a comprehensive program of management oversight by initiating 25 major projects during the year. The Edgar pilot project remains the paramount undertaking. The staff, which is providing overall coordination for the Edgar pilot, ensured that all major 1985 milestones were reached on schedule. Of particular note was the progress made toward contracting for an operational system. The staff held a conference in July to allow potential bidders and other interested parties to ask questions, offer suggestions, and comment on a pre-solicitation document explaining the Commission's tentative system concept. The session was attended by over 100 individuals. The Executive Director's Office also performed management reviews of the Office of the Secretary and the Public Utility Holding Company program. The latter resulted in a series of recommendations leading to the transfer of the program to the Division of Investment Management. The staff also completed 62 smaller projects involving such matters as executive resource management, paperwork reduction, internal control reviews, and procurement law. The contributions and achievements of women and minorities were recognized with special programs sponsored by EEO highlighting Hispanic Heritage Week, Asian/Pacific Heritage Week, Women's Week, Afro-American History Month, and Dr. Martin Luther King's Birthday. In addition, during National Secretaries Week, the staff organized a workshop on emerging occupations and trends in the work place.

The Secretary's Office prepared 1,080 pages of minutes regarding 600 matters discussed at Commission meetings and 550 considered seriatim. It also produced 3,847 index cards to the Commission's minutes. The office processed 2,811 releases, finalized 12,125 official orders, and prepared 1,278 documents for publication in the Federal Register. The library staff acquired over 34,400 new items, circulated 11,041 documents, and responded to 4,972 research requests.

The Office of Public Affairs responded to 64,400 written, telephonic and in-person inquiries. The staff issued 70 news releases and conducted 30 press conferences and briefings. In addition, the office coordinated programs for more than 200 foreign visitors to the SEC, prepared the daily News Digest, and published the SEC Annual Report, the Employee News, and a daily compilation of news items. Finally, the staff updated four publications designed to assist investors.

Administrative Support: The Office of the Comptroller supervised a number of important financial management initiatives. To begin with, the Commission expanded its use of electronic fund transfer. Over $37 million in fees was electronically transmitted from the exchanges to interest-bearing Treasury accounts, thereby saving the Federal government $30,000 in interest which would otherwise have been paid while these monies were enroute. An additional $4.8 million in miscellaneous fees was also collected by the Commission in this manner. In support of Reform 88, the Commission has made its highly-regarded payroll and personnel systems available to other agencies to reduce costly and duplicative administrative systems. During 1985, the Federal Mediation and Conciliation Service became the first agency to share the SEC's systems. The staff met with eight other agencies that are considering using the SEC systems. The Comptroller's Office also completed revisions to the agency's accounting system in order to permit single-entry posting and accommodate a planned automated payments system. Diners' Club Cards were made available to employees for official travel, reducing outstanding travel advances by 25%.

To further the goals of the Productivity Improvement by Computer (PIC) program, ISM staff increased to 150 the number of microcomputers available to SEC personnel, a 33% growth over the previous year. This growth was accompanied by an increase in the services provided by the User Support Information Center (USIC), which presented over 200 training courses. In addition, USIC fielded over 1,300 technical assistance inquiries from microcomputer users. The ISM staff designed an on-line corporate index system to provide SEC employees and the public with summary information about corporations registered with the Commission. Public access to corporate information is available in the Public Reference Room via video display terminals. Other major systems designed by ISM included: a system to permit the staff to reconcile personal financial transactions with the stock purchase prohibitions and disclosure requirements of the Commission's conduct regulations, a merit pay information system, and a retirement component for the revamped payroll system. At the same time, the Commission replaced all of its local teleprocessing terminals and acquired a high speed laser printer.

To improve staffing efficiency, the Commission sought, and was granted, delegated authority from the Office of Personnel Management (OPM) to conduct a recruitment program for securities compliance examiners. In addition, staff in the Office of Personnel and OPM cooperated in the design of qualification standards for accountants to improve the quality and timeliness of recruitment in this key area. During the year, the Personnel staff continued an aggressive program of position management, with 225 positions being subjected to classification reviews. Office personnel also administered an extensive training program to improve the skills of the staff. Finally, the staff developed improved policy guidelines dealing with merit promotion, performance appraisals, incentive awards, and disciplinary practices.

Field offices were relocated in Miami, Houston, and Salt Lake City, requiring planning and coordination by the Office of Administrative Services. Extensive physical alterations to the headquarters building were also required to support operations of the Division of Corporation Finance, the Division of Enforcement, the Office of Internal Audit, and the Directorate of Economic and Policy Analysis. The Administrative Staff also continued efforts to improve internal control and accounting by implementing an automated property accountability system and revising the related property accountability regulations. Two major contracts were negotiated: Bechtel's Microfilm Production and

Dissemination Contract and a no-cost contract which identifies lost or stolen securities. The Office of Administrative Services also continued to acquire surplus equipment from other agencies, thereby reducing the operating expenses associated with equipment purchases. Finally, the SEC's printing facility produced 48.8 million printed pages, an increase of 14% over 1984 levels.

1986 Appropriation/Gramm-Rudman-Hollings

1986 Appropriation

Policy Management: In a dynamic securities market, the number of products and participants will continue to proliferate. Important issues involving the dimensions of the Commission's regulatory authority, the pursuit of fraud in a global marketplace, and the propriety of certain corporate control practices will continue to demand the attention of the Commission and its Executive Staff. With the funding provided by the 1986 appropriation, the Commission would meet 140 times to consider over 655 rule proposals, enforcement actions and other matters. In addition, resources would be available to provide full support to Commissioners and senior executives making appearances before congressional committees to testify on important issues within the purview of the Commission.

The Office of Internal Audit will coordinate activities required by the Federal Managers Financial Integrity Act. The office will also continue as a participant in the President's Council on Efficiency and Integrity and serve as a liaison to the General Accounting Office.

The principle undertaking of the Executive Director's Office will be to manage the award of the operational Edgar contract. The staff will also coordinate the creation of the Philadelphia Regional Office and the closing of the Washington Regional Office. In addition, the Executive Director's staff will conduct a systematic program of management reviews of line divisions and regional offices and will continue to coordinate office automated demonstration projects throughout the agency. In all, the 1986 appropriation would permit the Executive Director's Office to complete 23 major management projects and some 61 smaller projects involving areas such as the improvement of internal controls, cost benefit analysis, productivity improvement, executive resource management and paperwork reduction. The office will also coordinate the agency's budget, direct the regional and support offices, and respond to requests and inquiries from GAO, OMB, and GSA. The EEO office will provide training for managers, supervisors and employees who have not previously attended any EEO courses.

Funds provided by the 1986 appropriation would enable the Office of the Secretary to prepare over 1,163 pages for inclusion in the minute record and more than 10,000 pages for publication in the Federal Register. The staff would be able to process an estimated 12,942 orders and 2,800 releases. In addition, the library staff could respond to over 5,300 reference and research inquiries and circulate over 11,735 items. The Secretary's Office would also implement a variety of system enhancements, procedural modifications, and personnel actions recommended by the recent management review of the office.

The 1986 appropriation would also provide resources for the Office of Public Affairs to respond to 68,060 telephone, in-person, and written inquiries. The office will also issue 72 news releases, conduct 31 press conferences or briefings, and publish the Commission's *Annual Report*. The staff will continue to publish the *SEC News Digest*, the *Employee News*, and daily summaries of important news items, and update public information brochures regularly.

Administrative Support: In addition to performing all essential financial management and budget control functions, at 1986 appropriation funding level the Comptroller's Office could expand its use of microcomputers to expedite the preparation of management reports required by OMB and other executive oversight agencies. The staff would prepare a new accounting manual to incorporate changes in the agency's accounting procedures. Regular audits of time and attendance records, overtime requests and leave applications would continue. The appropriation would provide the resources for the staff, in accord with Reform 88, to continue to provide technical assistance and accommodate, where feasible, other federal agency requests to become users of the Commission's administrative systems. Finally, work could begin on a budget/procurement tracking system that will enable SEC organizations to electronically transmit budget and procurement requests and justifications to the Comptroller's Office.

In 1986, ISM staff proposes to develop and implement five new systems or system enhancements, e.g., a system to accommodate both the old federal retirement program and the new system initiated by Public Law 98-21. An enhancement to an existing system could necessitate more staff time than bringing-up a new system due to the necessity to adapt the "old" system to meet new requirements. The 1986 appropriation would permit the staff of ISM to maintain 72 mainframe applications. In addition, two of these applications would undergo a major redesign: The Staff Time and Activity Tracking System and the agency personnel system which would serve to enhance reporting accuracy and management. The staff will also provide technical support for improvements in the financial management systems scheduled for completion by the end of the decade. Finally, ISM will provide a wide range of services to support shared system arrangements with other agencies.

The 1986 appropriation would provide resources for the Office of Personnel to continue a comprehensive position review to identify potential cost savings and productivity improvements available through improved position management. The staff will continue to focus training resources on programs to complement the rapid expansion of computer technology across the Commission. In addition, current procedures for new employee orientation will be improved and a series of comprehensive workshops will be sponsored to instruct the staff on anticipated changes to the federal retirement system and other personnel practices.

During fiscal 1986, the Office of Administrative Services will prepare the solicitation and contract materials associated with the operational Edgar contract. With the 1986 appropriation, funding would also be available to produce a consolidated administrative regulations manual. The Boston Regional Office and San Francisco Branch Office would be relocated and extensive alterations completed in the New York Office. Office personnel will also coordinate space assignments for the close of the Washington Regional Office. Finally, the staff would coordinate the installation of more efficient telephone systems in the Seattle, New York and San Francisco offices.

Gramm-Rudman-Hollings

Policy Management: The Gramm-Rudman-Hollings cuts will reduce all policy management activities from the levels that would have been provided by the 1986 appropriation due to fewer staff years available to conduct these activities. The number of Commission meetings will be reduced 4% as the number of items presented to it will drop 5%. The reduction in the size of the SEC staff will generate a 5% drop in the number of items prepared for Commission consideration. Commission meetings will decrease 4%, producing a similar drop in the number of releases and orders prepared by the Secretary. The Executive Director's staff will undertake 4% fewer projects designed to enhance productivity and efficiency. The Secretary's staff will experience delays in preparing notices for the Federal Register and in processing Commission orders. Public Affairs will respond to 3% fewer investor inquiries.

Administrative Support: The resource reductions necessitated by Gramm-Rudman-Hollings will decrease the level of activity in all administrative support functions from that possible with the 1986 appropriation. The Comptroller will process 6,700 vouchers and 12,500 invoices, representing a 3% reduction from 1986 appropriation levels. Moreover, the staff will forgo addition of an accountant, thereby delaying planned efforts to improve the agency's financial systems and rewrite systems manuals. ISM staff will experience a 20% reduction in the number of new systems developed and a 7% reduction in the number of systems maintained and updated. Personnel will have the resources to conduct 240 position management reviews and train 1,400 SEC staff, representing a 20% and 10% reduction from the 1986 appropriation. Finally, administrative services staff will effect 2% fewer procurements, and print plant production will drop from 50.7 to 48.8 million pages, a decline of 4%.

1987 Program Request

Policy Management: The funding requested in 1987 will allow the Commission to provide a high level of investor protection through the regulation and enforcement of the securities markets. Major issues coming before the Commission will include tender offers, takeovers and junk bonds. The 1987 request will enable Executive Staff to conduct a thorough analysis of all policy issues associated with rule proposals and enforcement matters brought before the Commission.

The Office of Internal Audit will have the resources to conduct 21 internal control projects and 8 monitoring program projects in 1987. This represents a 12% increase in these activities over 1986 Gramm-Rudman-Hollings level.

Personnel in the Executive Director's Office will initiate and complete 23 major management studies. These studies will include review of a major headquarters division and regional office. These studies improve the efficiency and effectiveness of the subject organization. The Executive Director will also prepare the agency's budget, direct regional and support offices, and respond to all requests for information from the General Accounting Office, Office of Management and Budget, General Services Administration, and the Office of Personnel Management.

The EEO Office will provide EEO training for managers, supervisors, and other employees and continue its mission to promote the full realization of equal employment opportunity through a continuing affirmative action program.

The Secretary's Office will prepare and maintain approximately 1,163 pages of minutes relating to the Commission's consideration of 655 items in an estimated 140 meetings. The staff will also have the resources to process an estimated 15,742 orders and releases and prepare over 10,600 pages for publication in the Federal Register.

The 1987 funding request will permit library personnel to provide a complete array of services and resources to staff, by responding to an estimated 5,307 requests for information and circulating almost 12,000 resource materials, e.g., serials, periodicals, texts, etc.

Finally, staff in the Office of Public Affairs will reply to a projected 68,060 oral and written inquiries.

Administrative Support: The Comptroller's Office will perform all financial management and budget control activities necessary to support the SEC's operations and ensure compliance with the Federal Managers Financial Integrity Act. Moreover, the 1987 request will provide the resources to implement an automated payments system that would dramatically reduce the costs of voucher processing and greatly improve financial reporting. In addition, assistance will be provided to other small agencies attempting to streamline their administrative systems or interested in becoming users of the SEC's financial systems. The office will complete the design and begin implementation of a budget/procurement tracking system that will be capable of quickly identifying potential funding abuses.

At the requested funding level, ISM staff will complete redesign projects for the Staff Time and Activity Tracking System and the Commission's personnel systems. ISM will continue to oversee the expansion of the agency's microcomputer program and assist staff users through an enriched USIC curriculum. Resources will be available to provide the technical support necessary to accommodate an anticipated growth in the number of outside agencies utilizing the Commission's administrative systems. Finally, the ISM staff will undertake a major hardware acquisition to replace its existing computer mainframe. The mainframe is obsolete and costly to maintain, with repair parts very difficult to locate.

The Office of Personnel will conduct 300 position management and 14 program reviews. These reviews will improve the management and utilization of the Commission's personnel resources, a critical need in the Gramm-Rudman-Hollings environment. The Office will have the resources to train 1,550 SEC staff in new skills required by the Commission's evolving workload and work procedures.

The Office of Administrative Services will meet the Commission's essential logistics, property control, and contracting requirements at this funding level. Funds will also be available for the staff to develop and implement an on-line purchase order system which will allow the transmittal of purchase order requests to the contracts branch via personal computers. Finally, staff will complete a consolidated administrative regulations manual.

Program Direction

Workload Data

Activity	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
EXECUTIVE STAFF								
Commission Meetings	130		135		140		140	
Calendar Items	600		625		655		655	
Audit Reports and Memoranda	16		21		25		25	
Internal Control Projects	16		19		20		21	
Monitoring Programs	6		7		8		8	
		33.0		36.2		37.3		37.3
EXECUTIVE DIRECTOR								
Major Projects	25		22		23		23	
Other Projects	62		59		61		61	
		15.2		13.9		14.3		14.3
SECRETARY								
Pages of Minutes	1,080		1,122		1,163		1,163	
Federal Register:								
Documents	1,278		1,546		1,601		1,601	
Pages	8,459		10,306		10,674		10,674	
Releases:								
Documents Processed	2,811		2,800		2,800		2,800	
Official Orders	12,125		12,496		12,942		12,942	
Library:								
Materials Circulated	11,041		11,379		11,785		11,785	
Reference/Research Requests	4,972		5,124		5,307		5,307	
		19.8		18.7		19.3		19.3
PUBLIC AFFAIRS								
Telephone Inquiries Processed	62,000		63,500		65,500		65,500	
Written Inquiries Answered	900		930		960		960	
In-Person Inquiries Handled	1,500		1,550		1,600		1,600	
Press Releases	70		70		72		72	
Press Conferences	30		30		31		31	
		6.7		7.2		7.4		7.4

Activity	FY 1985 Actual		FY 1986 Gramm-Rudman Hollings Estimate		FY 1986 Appropriation Estimate		FY 1987 Estimate	
	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
COMPTROLLER								
Payroll Section:								
Personnel Actions (SF-52) Processed	8,500		8,500		8,750		8,750	
Payroll Checks Issued	57,132		57,150		58,900		58,900	
Accounts and Reports Section:								
Number of Accounts Receivable Letters Sent: Delinquent Fees	15,750		13,000		13,000		13,000	
Travel Agent - Tickets Issued	1,885		1,885		2,500		2,500	
Checks Deposited: Fees	38,587		39,000		39,000		39,000	
Travel Authorization Postings	51,000		51,000		52,000		52,000	
Voucher/Audit:								
Number of Travel Vouchers:								
On Hand	700		187		187		150	
Received	6,701		6,700		6,900		6,900	
Processed	7,214		6,700		6,900		6,900	
Backlog	187		150		187		150	
Number of Miscellaneous Invoices:								
On Hand	800		654		654		654	
Received	12,449		12,500		12,800		12,800	
Processed	12,595		12,500		12,800		12,800	
Backlog	654		654		654		654	
		27.2		27.3		28.4		28.4
INFORMATION SYSTEMS MANAGEMENT								
New Systems/Enhancement	4		4		5		5	
Systems Maintained and Updated	63		67		72		72	
FOIA and Ad-hoc Report Requests	500		500		555		555	
		60.7		62.6		64.6		64.6

	FY 1985		FY 1986 Gramm-Rudman Hollings		FY 1986 Appropriation		FY 1987	
	Actual		Estimate		Estimate		Estimate	
Activity	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years	Work-load	Staff Years
PERSONNEL								
Personnel Actions Processed	7,273		7,200		7,607		7,607	
Staff Members Trained	1,390		1,400		1,550		1,550	
Position Management Reviews	225		240		300		300	
*Program Reviews	13		13		14		14	
		26.1		27.5		28.4		28.4
ADMINISTRATIVE SERVICES								
Procurements (Contracts and Purchase Orders)	1,265		1,260		1,283		1,300	
Moves (pieces)	9,062		8,950		10,145		10,200	
Imprest Fund Transactions	2,474		2,375		2,500		2,500	
Print Plant Production (in millions of pages)	48.8		48.8		50.7		50.7	
Copy Services (in millions)	17.7		17.7		18.4		18.4	
Graphics Requests Met	680		680		700		700	
		61.1		61.0		62.9		62.9

* Last year this indicator was called "Personnel Program Evaluations." Due to the time requirement and staffing restraints, it was decided that more could be accomplished through program reviews. Program reviews not only entail on-site review of the implementation of personnel regulations, but revisions and updates to procedures and policies mandated by the Office of Personnel Management.

SUMMARY - OTHER EXPENSES
($000)

	Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
A.	Personnel benefits	$7,746	$8,069	$8,364	$8,419	$
B.	Benefits to former employees	157	80	80	80	—
C.	Travel and transportation of persons	2,563	2,516	2,616	2,616	—
D.	Transportation of things	31	58	58	58	—
E.	Communications and rental	13,528	13,562	13,862	13,008	-854
F.	Printing and reproduction	1,107	1,138	1,188	1,188	—
G.	Other services	9,040	8,707	10,007	10,007	—
H.	Supplies and materials	1,664	1,530	1,580	1,580	—
I.	Equipment	1,741	1,596	1,796	954	-842
J.	Claims and indemnities	11	0	0	0	0
	Totals	$37,588	$37,256	$39,551	$37,910	$-1,641

A. Personnel Benefits
($000)

Funds requested under this category are to cover the Commission's share of costs for life and health insurance, retirement, social security and medicare taxes. Also included in this request are relocation expenses related to permanent change of station.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Life insurance contributions	$ 123	$ 126	$ 130	$ 131	$ 1
Contributions to civil service retirement fund	4,599	4,692	4,864	4,905	41
Social Security taxes	650	756	785	791	6
Health benefits contributions	1,675	1,632	1,693	1,692	-1
Medicare tax	682	789	818	826	8
Subsistence and temporary expenses	5	20	20	20	-
Real Estate costs	10	50	50	50	-
Misc. moving expenses	2	4	4	4	-
Totals	$7,746	$8,069	$8,364	$8,419	$55

The life insurance contributions change of $1,000 results from mandatory pay increases mandated by 5 U.S.C. 5335 and merit pay costs mandated by 5 U.S.C. 5402.

The net $41,000 change in civil service retirement fund contributions includes increases of $43,000 for mandatory within-grade/merit pay costs and $6,000 related to the Edgar staff, less a reduction of $8,000 from the decrease in average employment.

The social security tax change of $6,000 is related to the Edgar staff increase.

The net $1,000 reduction in health benefit contributions results from a $2,000 increase related to the Edgar staff less $3,000 related to the reduction in average employment.

The medicare tax change of $8,000 includes increases of $9,000 for mandatory within-grade/merit pay costs and $1,000 related to the Edgar staff, less a reduction of $2,000 related to the decrease in average employment.

8. Benefits to Former Employees
($000)

Funds requested in this category are to cover the Commission's costs for benefits and other payments made from the Employee's Compensation Fund to or on behalf of former Commission employees. Payment, based on invoice costs, is made to the Department of Labor as required by 5 U.S.C. 8147.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Accident compensation	$ 135	$ 40	$ 40	$ 40	$ --
Unemployment compensation benefits	22	40	40	40	--
Totals	$ 157	$ 80	$ 80	$ 80	$ --

No change is requested in this account.

C. Travel and Transportation of Persons
($000)

Funds requested under this category are to cover travel costs for employees in performance of their official duties, travel of an employee's family in the case of a change of duty station and travel to first duty station for new employees in selected occupational groups.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Transportation of persons	$1,139	$1,115	$1,175	$1,175	$ --
Commercial rental of automobiles	98	100	100	100	--
Subsistence expenses	742	725	765	765	--
Incidental expenses	11	15	15	15	--
Mileage - use of private automobile	111	110	110	110	--
Compensation of witnesses	263	250	250	250	--
Government motor pool rentals	28	30	30	30	--
Taxis	171	171	171	171	--
Totals	$2,563	$2,516	$2,616	$2,616	$ --

No change is requested in this account.

BEST COPY AVAILABLE

D. Transportation of Things
($000)

Funds requested under this category are to cover costs of shipping household goods in selected instances of initial hiring or change of duty station, moving other freight, and renting trucks.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Transportation of things	$ 12	$ 15	$ 15	$ 15	--
Rental of trucks	3	3	3	3	--
Transportation of household goods	16	40	40	40	--
Totals	$ 31	$ 58	$ 58	$ 58	--

No change is requested in this account.

E. Communications and Rental
($000)

Funds requested under this category are to cover costs associated with rental of office space, telephone service, mail charges, teletype and telegraph services, and a variety of equipment rentals, including ADP equipment and software.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Telegraph service	$ 8	$ 8	$ 8	$ 8	$ --
Telephone - local	1,143	1,185	1,230	1,196	- 34
Telephone - long distance	1,631	1,500	1,556	1,556	—
Teletype and ticker service	17	18	18	18	--
Postage	353	365	375	375	--
Rental of space	9,324	9,345	9,345	8,525	-820
Rental of key punch equipment and computer components	605	669	838	838	—
Rental of other equipment	447	472	492	492	--
Totals	$13,528	$13,562	$13,862	$13,008	$-854

A $34,000 reduction in local telephone will result from the SEC's closing of its Arlington, Virginia office.

The reduction of $820,000 in rental of space includes annual savings of $704,000, resulting from a new General Services Administration methodology for charging customer agencies for space and related services, and $116,000 from the closing of the Arlington, Virginia office.

F. Printing and Reproduction
(\$000)

Funds requested under this category are to cover costs of all printing and reproduction work performed by the Government Printing Office or other outside sources.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Printing and binding	\$1,054	\$1,093	\$1,143	\$1,143	\$ --
Photo duplication and reproduction	53	45	45	45	--
Totals	\$1,107	\$1,138	\$1,188	\$1,188	\$ --

No change is requested in this account.

G. Other Services
($000)

Funds for this category are to cover the cost of a variety of contractual services, as described in the following table.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Equipment maintenance and repairs	$ 786	$ 830	$ 905	$ 905	$ --
Office alterations	164	50	150	150	--
Guard service	289	315	315	315	--
Air conditioning and heating	71	76	76	76	--
Miscellaneous expenses	87	69	119	119	--
Stenographic reporting contracts	550	525	600	600	--
Purchase of transcripts	220	320	320	320	--
Training expenses	229	200	300	300	--
Health unit expenses	114	115	115	115	--
Storage of household goods	1	7	7	7	--
Background investigations	1	14	14	14	--
Moving expenses	9	20	20	20	--
ADP and other contractual services	6,518	6,164	7,064	7,064	--
Reception and representation	2	2	2	2	--
Totals	$ 9,040	$8,707	$10,007	$10,007	$ --

No change is requested in this account.

4. Supplies and Materials
($000)

Funds requested in this category are to cover the costs of items which are ordinarily consumed or expended within one year after use, or which are needed to form a minor component of a piece of equipment or fixed property.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Office and duplicating supplies	$ 793	$ 770	$ 820	$ 820	$ --
Newspapers	22	17	17	17	--
Library materials	533	516	516	516	--
Microfiche services	8	8	8	8	--
Software purchases	308	219	219	219	--
Totals	$1,664	$1,530	$1,580	$1,580	$ --

No change is requested in this account.

I. Equipment
($000)

Funds requested are used to purchase equipment for Commission employees. These items are expected to have a period of service of one year or more after being put into use.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Serially-numbered equipment and office furniture	$1,741	$1,596	$1,796	$ 954	$-842
Totals	$1,741	$1,596	$1,796	$ 954	$-842

The SEC requires $954,000 in 1987 to resume its replacement program of fully depreciated and/or inoperable equipment. A buyout of Edgar related equipment occurred in 1986 and related funds are not included for 1987.

J. Claims and Indemnities
($000)

Funds requested under this category are necessary to cover payments for losses and claims including those under the Equal Access to Justice Act (P.L. 96-481). The Act requires Federal agencies to award attorney's fees and other expenses under specified circumstances to individuals and certain small businesses that prevail as parties in administrative proceedings and civil actions brought by or against the Federal government.

Item	1985 Actual	Gramm-Rudman-Hollings 1986 Estimate	1986 Estimate	1987 Estimate	Change
Claims and Indemnities	$ 11	$ 0	$ 0	$ 0	$ --
Totals	$ 11	$ 0	$ 0	$ 0	$ --

No changes are expected in this account.

Statement of Fees

Source of Fees	1985 Actual	1986 Estimate	1987 Estimate
Registration of Securities Under the Securities Act of 1933	$75,794,949	$ 76,452,000	$ 80,214,000
Securities Transactions under the Securities Exchange Act of 1934	37,086,547	46,316,000	57,894,000
Other Filings and Reports	30,820,444	30,816,000	31,231,000
Total	$143,701,940	$153,584,000	$169,339,000
Fees as a percentage of appropriation	135%	138%	154%
Fees as a percentage of Gramm-Rudman-Hollings adjusted appropriation	--	144%	--

Explanation of SEC Fees

In 1986, the SEC expects to collect 138 percent of its appropriated operating expenses from fees. All fee revenue is deposited into the general fund of the United States Treasury. The $10 million revenue increase over 1985 is expected from greater numbers of filings registering securities under the Securities Act of 1933 and a projected increase in total market value of securities traded on national securities exchanges or off the exchanges by brokers or dealers.

In 1987, the SEC expects to collect 154 percent of its operating expenses from fees. The $16 million revenue increase is expected to largely result from an historical growth rate in securities transaction volume of 27 percent per annum.

DETAIL OF PERMANENT POSITIONS BY GRADE

	1985 Actual	1986 Estimate	1987 Estimate	Increase/ Decrease ( )
Executive Level III	1	1	1	-
Executive Level IV	4	4	4	-
SUBTOTAL	5	5	5	-
ES-6	4	4	4	-
ES-5	6	6	6	-
ES-4	21	21	21	-
ES-3	7	7	7	-
ES-2	7	7	7	-
ES-1	5	5	5	-
SUBTOTAL	50	50	50	-
GS-18	-	-	-	-
GS-17	1	1	1	-
GS-16	4	4	4	-
GS/GM-15	156	156	156	-
GS/GM-14	276	277	277	-
GS/GM-13	383	385	385	-
GS-12	252	254	254	-
GS-11	177	193	195	+2
GS-10	9	9	9	-
GS-9	99	105	109	+4
GS-8	29	29	29	-
GS-7	121	121	121	-
GS-6	155	155	155	-
GS-5	163	170	170	-
GS-4	78	78	78	-
GS-3	38	38	38	-
GS-2	21	21	21	-
GS-1	1	1	1	-
SUBTOTAL	1,963	1,997	2,003	+6
UNGRADED	28	28	28	-
TOTAL PERMANENT POSITIONS	2,046	2,080	2,086	+6

Staff Composition by Job Category

	Actual Fiscal Year 1985		Appropriated Fiscal Year 1986		Net Change	Requested Fiscal Year 1987	
	Number	% of Total	Number	% of Total	Number	Number	% of Total
Attorney	708	34.6	718	34.5	-	718	34.4
Financial Analyst	103	5.0	108	5.2	-	108	5.2
Accountant	126	6.2	131	6.3	-	131	6.3
Investigator/Securities Compliance Examiner	215	10.5	229	11.0	-	229	11.0
Other Professional, Technical and Administrative	323	15.8	323	15.5	+6	329	15.7
Clerical	571	27.9	571	27.5	-	571	27.4
Totals	2,046	100.0	2,080	100.0	+6	2,096	100.0

Average Grade and Salary Data

	1985 Actual	1986 Estimate	1987 Estimate
Average ES Salary	$67,834	$67,427	$64,427
Average GS/GM Grade	10.45	10.43	10.43
Average GS/GM Salary	$32,116	$33,208	$33,252

OPENING STATEMENT

Mr. SMITH. Do you have a statement, Mr. Chairman?

Mr. SHAD. Yes, Mr. Chairman. How much time do we have? I can make this short if you want me to.

Mr. SMITH. You had better do whatever you think is necessary to adequately explain your request. We do have budget problems this year. We want to know what your priorities are.

Mr. SHAD. Chairman Smith and members of the subcommittee, the Securities and Exchange Commission is a law enforcement agency. Its mission is to protect investors and maintain fair and orderly markets. Its resources are devoted to exposing and prosecuting those who defraud investors through false and misleading disclosure, market manipulation, insider trading and other fraudulent activities; inspecting and surveilling the securities markets and firms, investment companies and advisers, and the self-regulatory organizations; and prescribing and reviewing corporate disclosures which facilitate the fairness and efficiency of the securities markets.

The SEC appreciates this opportunity to present its 1987 budget request of $110,050,000 and 1,993 staff years, as proposed in the President's budget.

Gramm-Rudman-Hollings will reduce the SEC's 1986 appropriation $4,777,000, and 60 staff years, or 3 percent to 1,934 staff years. It represents a $59,000 and six staff year reduction from the 1985 appropriation of $106,382,000 and 1,940 staff years.

SEC Budget Surpluses: in each of the last three fiscal years, registration, transfer and other fees have exceeded the SEC's $90 to $106 million budget, which has happened only once before in the Commission's 51-year history. The 1983–85 surplus amounted to over $70 million, and the 1986 and 1987 surpluses are expected to exceed $45 and $60 million, respectively.

1985 RESULTS

1985 Results: the following are highlights of the 1985 results and ongoing efforts. Record results were achieved in the number of investment company, investment adviser, and self-regulatory organization inspections, corporate filings reviewed, and broker-dealer oversight examinations.

During the last four fiscal years, through automation, paperwork reduction, and other improvements and staff initiatives, each SEC division has achieved record results, or the highest levels in years, with 2 percent to 5 percent less personnel. Since 1981, the annual volume of: appellate and other cases has been increased by 35 percent; enforcement actions by over 40 percent; corporate filings reviewed by over 50 percent; broker-dealer oversight examinations by over 60 percent; self-regulatory organization inspections by over 70 percent; and investment company and adviser inspections by over 100 percent.

Enforcement: of the 269 enforcement actions brought during fiscal 1985, a record 54, 20 percent of the total, were resource intensive financial disclosure cases. A number were products of the 1982 recession and the 1983 "hot new issue" market. It is during such periods that some companies and executives are most tempted to "cook the books."

Government Securities: government securities dealer failures last year, including ESM and Bevill, Bresslar & Schulman, resulted in seven enforcement actions and several on-going investigations. The Commission also delivered a study to Congress last June, which detailed actions taken by investors, government securities dealers, and Federal and State regulators to prevent future problems, as well as a possible legislative approach.

Edgar: in fiscal 1987, the Commission plans to commence an operational electronic disclosure system, known as Edgar, which I would add is subject, of course, to government approvals. The pilot system was designed by the SEC staff, Arthur Andersen, IBM and Dow Jones. When fully implemented, Edgar will increase the efficiency and fairness of the securities markets by accelerating dramatically the filing, processing, dissemination and analysis of corporate information.

Electronic filings will be instantly accessible to investors and others on home and business computer screens throughout the nation. Full disclosures by corporations will be available in minutes, instead of days or weeks. It will also improve the quality of Commission reviews and enhance staff productivity. Participants in the pilot include AT&T, General Motors, IBM, Exxon and other large and small companies, as well as the California, Georgia and Wisconsin State securities commissions. Over 370 participants have filed electronically over 2,800 documents.

Actually the current count is a little over 3,000 documents. The pilot is being steadily upgraded and expanded. It was recently doubled in size through the addition of 180 investment companies and unit investment trusts.

Subject to congressional approvals, the Commission plans to select the operational system contractor and phase-in the 11,000 publicly-owned companies and 2,700 investment companies over three years.

Integrated Disclosure Program: The SEC's integrated disclosure program is saving corporations, for the benefit of their shareholders, over a billion dollars per annum of paperwork, underwriting and interest costs—without reducing full disclosures to the investing public.

New Options and Futures: new options and futures are permitting investors and others to hedge stock market, foreign currency and other risks at a fraction of the prior costs of doing so.

Shareholder Communications: shareholder communications are being improved by requiring brokers to disclose to corporations the identity of their shareholders who do not object. Banks will be required to make similar disclosures next year.

Marketplace Efficiency: SEC efforts to increase the breadth and efficiency of the securities markets include: increasing investor protections and reducing transaction reconciliation costs, ultimately borne by investors.

Bush Task Group: The Commission has drafted legislation to implement the Bush Task Group's unanimous recommendation that banks' and S&Ls' securities disclosures be filed with the SEC, instead of five different Federal agencies. Consolidation within the

SEC would result in more uniform disclosures and enforcement, at lower cost.

Banks Securities Activities: the Commission has adopted a rule, 3b-9, to require banks to conduct certain securities activities under the same rules and regulations as apply to all other broker-dealers. The rule has been upheld by a district court, and is on appeal.

1986 AND BEYOND

Tender Offer Regulation: With reference to tender offers, the Commission has proposed legislation to require that 13-D disclosures, the initial disclosures when the investor crosses the 5 percent threshold, be filed within two calendar days instead of ten; has conformed the time periods of issuer tender offers to those required in third party offers; has solicited for comment an "all shareholders" rule which would require that tender offers be made on a nondiscriminatory basis to all shareholders; and has proposed a revised best price rule which would require that the best price paid to any be paid to all tendering shareholders.

Internationalization: with reference to the increasing internationalization of the securities markets, the Commission has approved linkages of the Boston and Montreal and the American and Toronto stock exchanges. Other major exchanges and market systems are considering international linkages. Three U.S. firms recently joined the Tokyo stock exchange and several have acquired substantial interests in London firms.

Approximately 10 percent of the transactions on the New York Stock Exchange are now originated abroad. The Commission has issued two concept releases which suggested approaches and solicited comments on ways to facilitate the international mobility of capital and improve international disclosure, distribution, surveillance and enforcement practices. These and other issues are being discussed with Canadian, United Kingdom and Japanese authorities.

Certificate Immobilization: with a view to accelerating the immobilization securities certificates, the SEC is encouraging corporations, municipalities and others to do their future public offerings of debt securities in the form of single Global Certificates against which investors' interests are recorded by depositories on an electronic book entry basis.

The gradual immobilization of securities certificates through the greater use of central depositories and electronic book entry systems will save hundreds of millions of dollars per annum of expenses ultimately borne by investors. Even in the absence of such potential savings, the paperwork and other problems avoided more than justify the effort to simplify the process.

CONCLUSION

Conclusion: In conclusion, as a result of the breadth and depth of the U.S. economy and the outstanding job being done by the securities industry and the self-regulatory organizations, under the SEC's disclosure, surveillance, enforcement and oversight programs, America has today by far the best securities markets the world has ever known—the broadest, the most active and efficient, and the fairest. They are not perfect, but with the benefit of ongoing efforts to implement electronic disclosure, international surveillance and enforcement, certificate immobilization, functional regulation, paperwork reduction, and automation programs, tomorrow's markets will be even better than today's.

Thank you. I will be pleased to amplify any of the foregoing matters.

BEST PRICE RULE

Mr. **Smith**. This best price rule; what is the status of that?

Mr. **Shad**. We originally proposed it on the best price offered had to be paid to all, and as a result of comments received, and through the review, we concluded that we should modify the proposal to the best price paid to any has to be paid to all.

One of the reasons is that in the course of these take-over battles, companies may take defensive maneuvers that actually reduce the value of their securities, and therefore the bidder has got to be in a position to lower its bid in all fairness, but I have to hasten to add that we are putting it out for comment again on this revised basis, and we haven't received all the comments or taken formal action yet.

Mr. **Smith**. If it is adopted, what would be the time frame?

Mr. **Shad**. I would guess that we would have the comments in by when, John?

Mr. **Huber**. By the end of this month.

Mr. **Shad**. So you are talking about 60 days.

BUSH TASK FORCE RECOMMENDATIONS

Mr. **Smith**. This recommendation of the Bush Task Force Group on filings; when do you expect that? Will that cost some money in your budget?

Mr. **Shad**. Yes, sir.

Mr. **Smith**. How much?

Mr. **Shad**. On bank and thrift securities we estimate that what it will do would be to require the banks and thrifts to file their securities disclosure documents through the SEC instead of a number of other agencies. We believe it will consolidate and be more efficient than the present system. The banks and thrifts are the only ones that are not in the present filing system with the SEC. The estimated dollar cost will be about $4 million, and the number of additional staff years about 102. That is a little higher than the previous number I have seen, but that is the latest estimate.

Mr. **Smith**. That is just for adding banks?

Mr. **Shad**. Adding banks and thrifts.

Mr. **Smith**. And thrifts?

Mr. **Shad**. You have got over 14,000 of them out there. I'm sorry, the only ones that have to file with us, of course, are the publicly owned banks and thrifts. The publicly owned holding companies are already filing with us, but the individually owned S&L's and banks would have to file with us, and I have forgotten the number.

Mr. **Huber**. Approximately 960.

Mr. **Smith**. Just adding names costs $4 million?

Mr. **Shad**. What it involves is their registration with us, their enforcement, rule-making, and the enforcement activities that come along with that.

Mr. **Huber**. It would also involve any public offering by these banks and savings and loans which are now exempt from the 33 Act, so it is not just the 960. It also involves the over 14,000 banks and thrifts.

Mr. **Smith**. Do you have figures on whose budget would be reduced as a result of this and how much?

Mr. **Shad**. We have an estimate. What was the estimate on the number? Right now you have it, as I said, spread over ourselves and four others. Do you have an estimate? We did have a rough estimate.

Mr. **Huber**. We have an estimate, but I only have the number for my division.

Mr. **Shad**. But we did some work on this.

Mr. **Smith**. Will you get us that information to the best of your ability? You are adding money to your budget. Whose budget will be reduced or should be reduced? Where is the savings, and how much?

Mr. **Shad**. We will come back with that. We need to do it by each of the agencies and the dollars and people estimated.

[The information follows:]

Non-SEC Budget Savings From Bush Task Force Recommendations

During initial development of the Bush Task Force recommendations on bank and thrift securities, it was determined by the Task Force Director, Mr. Richard Breeden, that the SEC undertaking of responsibility in this area could replace the work of approximately 30 staff currently performing the function in other agencies. This information is approximately 2 to 3 years old and, if the Subcommittee desires, the SEC will attempt to obtain more current data. It should be noted that much of the work is currently performed by such off-budget agencies as the Federal Reserve, Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, et al.

SEQUESTRATION IMPACT

Mr. **Smith**. How are you going to absorb this sequestration of $4,777,000?

Mr. **Shad**. Basically it will be, of course, a 4.3 percent reduction in dollars, and a 60 staff year reduction, and by and large it works out to about 3 percent reduction across the board of our major activities in personnel, staffing.

I can give you the specification. It will impact all activities at the Commission, and basically it will reduce the number of annual reports that we review. We are now reviewing over 20 percent of them. It will reduce it to about 18 percent.

It will reduce the number of enforcement actions that we estimate we will be bringing by about 3 percent; about 4 percent reduction in broker-dealer examinations for cause, and about a 7 percent reduction in broker-dealer oversight examinations; about a 2 percent reduction in investment company registration reviews and amendments; 3 percent reduction in our office of the general counsel litigation; 5 percent in the economic analysis activities and SEC rules, and about an 8 percent reduction in computer system development and maintenance.

I think you can say while it is 4.3 percent dollar reduction, it is about a 3 percent personnel reduction.

Mr. **Smith**. What are the consequences of that?

Mr. **Shad**. Overall, it will be this 3 percent reduction from the 1986 appropriations level of our personnel, and it will mean that we won't be doing as much, but it won't mean that we are going out of business by any means. I would hasten to add that the SEC could, of course, do more with more.

The markets and all the activities for which we have oversight responsibilities have grown dramatically, and through automation, paperwork reduction, and other improvements initiated by the staff, we are steadily improving our abilities.

But nevertheless, the markets are growing so rapidly that there is an increasing burden.

Mr. **Smith**. You have certain statutory responsibilities. Does this cut into your statutory responsibilities?

Mr. **Shad**. In the sense that our statutory responsibilities are to protect investors and maintain fair and orderly markets that means that we will have less resources, but I don't want to suggest that is the end of the world. It is a small reduction in our resources across the board.

Mr. **Smith**. The way the sequestration law works, reductions have to be taken equally between certain like items. Does this cause problems?

Mr. **Shad**. I think if we have more flexibility—we have done it across the board, but if we had more flexibility—we could probably tailor it to a less adverse impact.

Mr. **Kundahl**. Right now it doesn't cause problems. If we should have uneven turnover in some offices, or if our mission requirements should change requiring more stenographic transcripts and more travel, for example, then it could cause problems, and we might have to ask you for a reprogramming. Right now we think we can do it in the fashion the Congress has requested.

Mr. **Smith**. Right now you don't know of any proposed reprogramming?

Mr. **Shad**. That's correct.

Mr. Kundahl is the Executive Director.

Mr. **Smith**. The flexibility that you are speaking of could be done within our rules of reprogramming.

Mr. **Kundahl**. As much as we can envision. Right now, we don't foresee that taking place.

AUTHORIZATION STATUS

Mr. **Smith**. What is the status of the authorization for fiscal 1987?

Mr. **Shad**. It was approved by the House on June 22, 1985. It is pending in the Senate. The House approved a two-year authorization of $113.6 billion for 1986, and $118 million for 1987, and the third year of the authorization requested by the Commission included $121.8 million for 1988.

I would like to add that since the Commission submitted its 1986-88 authorization request to Congress, the proposed funding plan for Edgar has been modified. Originally we planned to finance out the entire program against user fees, but as a result of subsequent congressional and other comments, the funding plan has been modified to permit or require the Commission to cover its own internal facility costs with appropriated funds.

That is internal work stations and computer soft and hardware. The Commission has just submitted to both the House and the Senate an amendment to its authorization request to reflect the new Edgar funding arrangement, and it includes $5.8 million for fiscal year 1987. However, that is already in the President's budget, so we are not changing our appropriations request, but we are proposing to amend the authorization ceiling to include this.

Mr. **Smith**. What about the recommendations with regards to the banks and S&L's? Is that in?

Mr. **Shad**. That is in there. There is a total. When you include not only the proposed amendments under the Bush group, but the other legislation that is pending or in prospect, it is about $10 million and about 250 people on a phased in basis over the next two to three years.

Of course, we can't predict the action of Congress. That also includes a reduction for PUHCA, if the Public Utility Holding Company Act is repealed. It is presently to be funded, and then that portion would come out of the budget, if they repeal it.

Mr. **Kundahl**. All that is reflected in the authorization request we submitted last year, and which the House has passed.

FUNDING BUSH TASK FORCE RECOMMENDATIONS

Mr. **Smith**. Did you tell me that this $10 million cost for the Bush Task Force Group's recommendations is within your budget?

Mr. **Shad**. Yes.

Mr. **Smith**. For this year?

Mr. **Shad**. No.

Mr. **Kundahl**. It is not in the appropriation request. It is in the authorization. There is no funding.

Mr. **Smith**. Do you expect it to be completed by the end of fiscal year 1987?

Mr. **Shad**. I can't predict that. There are a lot of other people besides us involved on whether or not there would be such legislation, so I don't think we can speculate as to the probability of action in the current fiscal year, I mean in fiscal year 1987.

MANDATORY SALARY EXPENSES

Mr. **Smith**. What are the increased mandatory salary benefits, the $774,000, related to?

Mr. **Kundahl**. $674,000 is a portion of the total within-grade cost increases which we project for 1987. That cost we estimate is really closer to $1.2 million. We are absorbing the rest and reflecting $674,000 as a mandatory increase in the budget.

Mr. **Smith**. What is the rest of it?

Mr. **Kundahl**. Another $100,000.

Mr. **Smith**. Yes.

Is that a wrong figure?

Mr. **Kundahl**. I am not aware of another $100,000.

Mr. **Smith**. It is $674,000.

Mr. **Kundahl**. Yes, sir.

RENTAL OF SPACE EXPENSES

Mr. **Smith**. Tell us about this reduction of $704,000 for SLUC.

Mr. **Kundahl**. As you know, GSA gives us estimates every year of the amount of rent we will have to pay in the space we occupy in locations across the country, and their estimate for next year is down. They are changing from a SLUC system to a system they now call RENT, and we are reflecting that in the budget.

Mr. **Smith**. That doesn't reflect the difference in your space requirements then. It is a difference in GSA policies; is that correct?

Mr. **Kundahl**. That is correct.

Mr. **Smith**. You are paying the same amount for your space at Judiciary Square.

Mr. **Kundahl**. I think there is a slight escalator every year, a controlled amount that GSA contracted for.

Mr. **Smith**. Do you have the figure how much per square foot you are going to be charged for that?

Mr. **Kundahl**. The total cost is $5.8 million.

Mr. **Smith**. For 1987?

Mr. **Shad**. The range is from $39 a square foot down to a very low number.

Mr. **Kundahl**. Down to $4.

Mr. **Shad**. That is for parking.

Mr. **Kundahl**. Depending on the kind of footage.

Mr. **Smith**. Give me the overall rate for Judiciary Square. Is that broken out separately there?

Mr. **Kundahl**. That is all the headquarters. The entire headquarters costs us $5.8 million.

Mr. **Shad**. There is a total of 282,000 square feet.

Mr. **Smith**. That is all Judiciary Square.

Mr. **Kundahl**. That is all Judiciary Square.

Mr. **Smith**. Let's just take the $1 million. Five point how many million dollars?

Mr. **Kundahl**. Five point eight million dollars.

Mr. **Shad**. We are talking about $21 a square foot on average.

Mr. **Smith**. How much?

Mr. **Kundahl**. That is the 1987 rental estimate by GSA.

Mr. **Smith**. How much were you charged in 1986?

Mr. **Kundahl**. I have the figure here that shows 1985 at $6.8 million. Eighty-six is the same, $6.8 million.

Mr. **Shad**. Why does it go down that much? It goes down $1 million between years 1985 and 1987, but the footage stays the same.

Mr. **Smith**. They are changing the policies on how to charge. What did we finally approve per square foot that GSA pays the owner of that building? Do you remember? Was it $24?

Mr. **Kundahl**. They were trying to charge us that in the old building.

Mr. **Shad**. It is $24, but it is going down to $21.

Mr. **Smith**. No; I am talking about what GSA pays.

Mr. **Kundahl**. I thought it was around $19. We can check and give you that.

[The information follows:]

GSA RENTAL OF SPACE COST

The General Services Administration, based on lease information available to the Securities and Exchange Commission, will reimburse the owner of the Judiciary Square office building at the average rate of $18.62 per square foot in 1986 and $19.38 per square foot in 1987.

FEE REVENUE

Mr. **SMITH**. We have got a lot of problems with what agencies are charged and how they do it. You mentioned these surpluses of money generated from fees and so forth compared to your budget.

Mr. **SHAD**. They are paid directly to the Treasury, but we receive the money and it goes into a lock box for their account.

Mr. **SMITH**. We don't get any help in the bill. This Committee marks up as a result of that, but tell me what connection there is between the level of your appropriation and the amount of fees collected.

Mr. **SHAD**. Very little. There are confusing numbers. Our personnel levels and our budget, of course, are set by you, and the fees are a function primarily of the volume of registration statements that are filed, the volume of transactions on the stock exchange, and another group of smaller fees.

What has happened, of course, is that there has been an enormous explosion in the volume of trading. It is running well over 100 million shares a day now, and as a consequence, collected fees have gone up dramatically.

That is also true with registration statements. I think last year or the year before, additional fees were added in tender offer filings, and they are up in dollar amounts, so that is why our fees are up.

Mr. **SMITH**. So increasing or decreasing the level of resources in your agency, your commission, won't necessarily increase or decrease the amount of fees collected.

Mr. **SHAD**. It would not.

Mr. **KUNDAHL**. If you reduced our ability to review filings, though, it is conceivable it could slow——

Mr. **SHAD**. It could slow down companies' access to the marketplace, which would be a very serious problem. We try to work on initial public offerings at less than a 30-day processing time, so we are not inhibiting private sector access to capital.

SECURITIES LAW VIOLATIONS

Mr. **SMITH**. Is it my imagination or is it true that there are more violations? Are more of them being reported or are there more violations?

Mr. **SHAD**. One of the gauges of that would be the number of complaints that we receive from investors, and they are up, but I would hasten to add that they are not up as much as the volume of trading. Since 1981 the volume of complaints has increased 48-percent to about 31,400 a year that we receive. There is also a larger number that are filed with the self-regulatory, the stock exchanges, National Association of Security Dealers and the State Securities Commissions, but the market is up.

Volume is up even more than the 48 percent increase in complaints, and in 1982, we installed an automated complaint processing system which tracks them all, and it is about 20 percent of our enforcement cases do come from the complaints by investors.

Mr. SMITH. Violations are up because there are more filings and more activity.

Mr. SHAD. Yes.

REGIONAL OFFICE RELOCATIONS

Mr. SMITH. The justifications indicate that the Boston regional and the San Francisco branch office would be relocated. You plan to submit relocation proposals?

Mr. KUNDAHL. GSA is moving us out of the San Francisco Federal Building as part of their effort to remove asbestos from the building. In Boston we are in a building that at least once a year is shared by the circus elephants that come through with Barnum and Bailey, and for years that has been considered by both GSA and us to be inadequate space.

When the new Federal Building is completed, they will have room to move us into the old Federal Building, so in both cases it is GSA that is moving us, not the Commission that is instituting the action.

EQUIPMENT REDUCTIONS

Mr. SMITH. The $842,000 reduction in equipment that you have proposed is what? What are they related to?

Mr. KUNDAHL. In 1986 we have a one-time procurement of some Edgar equipment and so we are achieving savings in fiscal 1987 as a result.

EDGAR FUNDING

Mr. SMITH. This Edgar is a major undertaking. Do you see any difference in your outlook concerning it this year from last year? Have you changed your opinions of it?

Mr. SHAD. It is a big change to go from financing through user fees, which is the 18-year precedent of the Commission in terms of our present disclosure system, and it seemed reasonable and logical to us to propose Edgar on that basis. As a result of congressional hearings, we put it out in a pre-solicitation document to the potential bidders to get their reactions, which resulted in major modifications in the financing of the project, and also a delay in the time schedule as a consequence, which is expensive.

Mr. SMITH. How much of a delay in the time schedule?

Mr. SHAD. We had originally expected to go out with the RFP in July of last year, and here we are in February and it looks like—what is the estimated timing now?

Mr. KUNDAHL. Our best estimate, I think, would be May, or the end of April.

Mr. SHAD. That is a big delay. This idea of funding internally out of appropriated funds amounts to about $40 million over a period of seven years at the rate of $5.8 million a year. That adds an element of uncertainty to the bidding process. The bidder has to have some confidence that the Commission is going to be able to get $5 million a year through congressional process.

Mr. **Smith**. That is going to be extremely difficult now. We might just as well face it. We don't see those fees, and we have an overall dollar amount that we have to look at when we write up the bill. I don't see any way under the sun to prevent cutting into the muscle a little bit this year with a number of these agencies.

Mr. **Shad**. We have various alternatives in terms of sources of funds within the budget overall, within the authorization. As mentioned, there is about $10 million in there, in the appropriations, I mean in the authorization, to cover potential legislation.

Well, if you had to put a probability on that number, it is probably half of that. There is $5 million right there.

Mr. **Smith**. I am talking about comparing the budget request with, the authorizations. When we look at the things that were left out of the budget request and try to put it all together, it will be really tight. We are going to have to keep in touch with you and look at different possibilities as we progress here in the next few years as to where you can squeeze some more.

Mr. **Shad**. The administration has been supportive of this effort. It is mentioned in the President's budget specifically as a matter of fact, and we have the President's proposed budget for fiscal year 1987, which includes the funds for Edgar. I would like to just put it a little in perspective.

The SEC has been in the tonnage business, a paper business, for a half a century, and the tonnage is just piling up every year. More and more paper flows into the Commission. We are at least a generation behind the industries we serve. The financial community moved to electronic data processing just about 20 years go. That was when the transition occurred, and here we are trying to play catch up, and the advantages of Edgar are just enormous.

If we can get the thing up and running the way it is programmed—because it will reduce to a matter of minutes the dissemination of appropriate information that now takes days and weeks, and the processing of it within the Commission is a cumbersome task—if we have the wherewithal, the computer workspace, so that an analyst can call up the filing and ancillary information right on to the screen and make fast decisions through electronic mail instant responses, it is very much in my opinion in the best interest of the national economy.

It will improve the efficiency and fairness of the securities markets and dramatically accelerate the filing, dissemination, processing and analysis of this data.

Mr. **Smith**. Does the 4.3 percent reduction under Gramm-Rudman impact on the speed with which you get this done?

Mr. **Kundahl**. You mean an additional Gramm-Rudman cut in 1987?

Mr. **Smith**. No.

Mr. **Kundahl**. The cut we are taking in 1986 hasn't affected the pilot. The Chairman has been talking about the operational system which hopefully will commence in 1987.

Mr. **Smith**. Does that delay?

Mr. **Kundahl**. The 1986 sequestration, by itself, shouldn't delay us, because we are only cutting back slightly on what the pilot is all about. I think the pilot has taught us a lot about electronic filings, given us experience, and given us the opportunity to develop software. We will be able to transition successfully into the operational system.

SEQUESTRATION IMPACTS

Mr. **Smith**. Does this sequestration require any layoffs or RIFs or furloughs?

Mr. **Shad**. No.

Mr. **Smith**. It won't?

Mr. **Shad**. No. For this year, in fact, we will not have any significant impact.

Mr. **Kundahl**. In terms of laying off people. It will have an impact in the sense that——

Mr. **Shad**. From the appropriated ceiling it is 60 people or 60 staff years.

Mr. **Smith**. How do you handle 60 staff years? Can you handle that through attrition?

Mr. **Kundahl**. For one thing we saw it coming, so we dropped our personnel levels before we actually got the sequestration notice. We will be trying to maintain a constant level of effort through the rest of the year, as opposed to having a sharp dropoff.

Mr. **Smith**. Is your attrition fairly even between grade levels?

Mr. **Haynes**. It creates an imbalance between professional and clerical and puts us in the position of not being able to fill critical jobs, et cetera, so we do have those types of difficulties relative to administering this sequestration.

Mr. **Smith**. Tell us about the number of investment advisors that is increasing tremendously.

Mr. **Shad**. Yes, it is.

Mr. **Smith**. How does this impact your operation and what are you doing about it?

Mr. **Shad**. As you said, since 1981, the number of investment advisors has increased about 96 percent to about 11,000, but the volume of inspections by the investment management division is actually up more than that, 103 percent, so as a percentage we are inspecting a slightly larger portion than we were back in 1981.

There are proposals for an SRO, to set up a self-regulatory organization for the group, and also to raise the threshold of investment advisors that are subject to Federal instead of the State regulation. A lot of these are just intrastate, and I could say from an overall perspective as well we have got, our direction as to put more reliance, more weight, more responsibility on both the self-regulatory industry, self-regulatory organizations, as well as the State securities commissions.

Some States have very little inspection capabilities. Others are quite good. We are also coordinating our efforts better with them. We are constantly having conferences, and in fact we have helped train about 44 investment advisor examiners for 16 States during the past year, and we have conducted 127 joint examinations.

TAKE-OVER REGULATIONS

Mr. **Smith**. Does the Commission have a position on take-over regulations?

Mr. **Shad**. Yes, we do. Basically, the laws that we administer provide full disclosure rather than more regulations. We don't pass on the quality of the securities, of the transactions proposed, and we don't favor—the law doesn't favor and we don't try to in our regulations, or the administration of it—either bidders or targets, and we generally have confidence in the marketplace, as well as the State and Federal courts, and shareholder voting and other rights to protect investors, and generally that is working well.

One of the basic problems is that activities of the targets, when they are defending themselves from a takeover, are basically the subject of State law, whereas the bidders under our jurisdiction, Federal law, are on the other side, and the SEC has been very reluctant to suggest preempting State law in these areas.

The only legislative proposal that we are putting back up—sending back up to the hill this year on tender offers is to close the so-called 13-D, 10-day window for filings required after crossing ownership, the 5-percent threshold filing. It is now 10 calendar days, and we are proposing to reduce it to two because during that time period sometimes there is a rush and a bidder might accumulate a very large amount of stock before there is any notice to the market.

We are also putting up for comment—we have adopted a couple of rule changes. One is to put the bidder tender offers on the same time schedules. I mean the issuer tender offers are on the same time schedules as bidder third parties, and we plan to put out for comment a release which would raise a question about poison pills, which are a defensive tactic. Essentially, it is a form of recapitalization of a company that is achieved without shareholder participation.

Also various tactics have developed during the past year in major tender offer battles—Carter-Hawley-Hale, and Hansen are the principal ones that come to mind where either the bidder has terminated a tender offer after the stock has gone up dramatically, and then bought in the open market that was the Hansen situation. In the Carter-Hawley-Hale situation, while a conventional Williams act tender offer was in process, the company came in with an offer that wasn't subject to any of the rules or regulations of the Williams Act, and was able to buy about 51 percent of the stock in a matter of six days. The issue that raises is should all parties during this process be required to play by the same rules in the Williams Act under a conventional tender offer. There is a third rule proposal that will be put up for comment involving whether or not through shareholder approval, companies should be permitted to operate out of the so-called all holders tender offer process.

If the shareholders say for their company they want to permit their company to do a discriminatory tender offer, the question is should they be permitted to do it within their own discretion or should they be subject to the overall judgment of the SEC in terms of what is best for them.

HOUSEHOLD INTERNATIONAL DECISION

Mr. **Smith**. Did the Delaware court decision on Household International change or affect your position on poison pills?

Mr. **Shad**. Yes; it did. We filed an amicus brief opposing the position that the court ultimately took in that.

Before the Household International decision, about 35 to 40 companies, I should say, boards of directors, had adopted poison pills, and since then there has been about a similar number, about 35 to 40 new ones that have come in, and if we look at the trend or make a guesstimate, it looks like there will be over 100 of them this year, and so that is one of the reasons for including in our prospective release the question of whether poison pills should be subject to shareholder approval. And also it raises the states versus Federal question. Formally this would be an area for——

Mr. **Smith**. What is the status of this approval making it subject to the shareholders' approval?

Mr. **Huber**. It will be going up to the Commission at the end of February for commission consideration in early March.

Mr. **Shad**. And then it will be put out in a matter of 30 to 60 days for comment, and then probably another 30 days after that for us to analyze it all. And the staff will then come back to the Commission with recommendations.

Mr. **Smith**. That Delaware court case, is that final?

Mr. **Shad**. It is state law. It is the Supreme Court of Delaware decision.

Mr. **Smith**. Does it affect those that are incorporated in other states?

Mr. **Shad**. Delaware tends to provide the lead. They are not necessarily bound by that decision, but they certainly provide great leadership, and so many major companies are incorporated there. That is the reason there has been such a large number of new poison pills adopted.

Mr. **Smith**. Of course your rule would be effective regardless of where they were incorporated.

Mr. **Shad**. If we were to adopt it, we would have to have legislation to preempt state law, which is a very big decision, of course. And I don't want to suggest that that is—I don't know where we will come out after we have the benefit of public comment.

TAKEOVERS, MERGERS, AND ACQUISITIONS

Mr. **Smith**. With regard to your budget, we have all these corporate takeovers, mergers and acquisitions.

Is that impacting your budget a great deal?

Mr. **Shad**. The volume of activity does affect our resources. I mean we have to put more people—there is more to review, more litigation; yes.

Mr. **Smith**. If there are more takeovers, will that increase your staff years?

Mr. **Shad**. Staff years, yes. We have filed a number of amicus briefs.

We have brought some actions in these tender offer situations. We are involved in the review of these contested proxy contests that are going on. It does affect our overall demands.

Mr. **Smith**. If your poison pill proposal is adopted, though, that would tend to reduce substantially the number of those kinds of activities, wouldn't it?

Mr. **Shad**. I can't say that it would, because the pill itself is an inhibitor or defensive tactic. It is hard to quantify this. But it tends to discourage, certainly, bidders.

Mr. **Smith**. Yes.

Mr. **Shad**. The poison pill, the direction would be to inhibit tender offers, if the poison pill is not modified.

Mr. **Smith**. We may have a few more questions. We will submit them.

I want to say again we are going to have to mark this bill up in late April. That is not very far way. We have got to do a lot of work throughout the bill.

We have three departments and a number of independent agencies, in our subcommittee's jurisdiction. We are going to have to be looking under every rock for a little pebble we can take out. We will keep in touch with you.

Thank you.

[The questions and answers follow:]

QUESTIONS FOR THE RECORD SUBMITTED BY MR. SMITH

Question:

Why is it necessary to have three computers to do the job that one computer could handle? Why is it necessary to have one for the contractor, SEC and the states?

Answer:

The separation of the Edgar operational system into the Receipt & Dissemination, SEC Internal and State System was done because of workload sizing, security and cost effectiveness. The Receipt & Dissemination will likely be part of a shared system in combination with other financial database activities. The SEC internal system is separated from the Receipt & Dissemination for security reasons primarily. In addition, the internal system will be paid for with appropriated funds and must be clearly separate for government ownership and accounting purposes. The separation of the SEC Internal System from the State System was done for security, cost and workload considerations. The State's system workload will be greater than the SEC's internal processing requirements.

Question:

Will an examiner be able to review Edgar filings as easily as current hard copy? Is electronic distribution of filings economically feasible?

Answer:

Edgar will enhance the efficiency of the current receipt, processing and dissemination system. It will provide examiners with faster access to information and enhance the ability to do higher quality research and analysis. The quality of the review will be increased through immediate access to external data bases, enhanced ability for comparative analysis, easier identification of precedents and instant availability of prior filing information. The speed of the examination should be improved with the elimination of many "paper-chasing" tasks such as locating files, xeroxing and distributing copies of material. The use of the Edgar workstations will eliminate delays examiners experience when a review is interrupted due to the unavailability of information as well as reduce the amount of time spent in manually creating and maintaining workload logs. Since Edgar will provide on-site print capabilities, pages or sections of documents can be immediately printed and carried to off-site locations.

The Commission believes that electronic dissemination is commercially viable. This is based upon the success of the Commission's microfiche and paper dissemination contract and upon the superior utility of Edgar over the existing microfiche-based system.

Over a five year period the Commission dissemination contractor derived $8-12 million in revenue annually. This represented a substantial but not total share of the market. For example one commentator to a Commission release estimated the total market to be $20-30 million annually.

The Edgar system will provide faster access to this information. Because it will be in computerized form, users will also be capable of making greater use of the information. For these reasons it is likely that large professional users of the information will be willing to pay relatively large fees for these services. One indication of this was a statement by a representative of a Wall Street firm that they currently spend $100,000 for a microfiche subscription and also spend over $110,000 annually for paper copies of material that is so time sensitive that they cannot wait for subscription delivery. An assessment of the commercial viability will be reflected in bidders' proposals in response to the Commission's RFP for the operational system.

Question:

Why aren't the analytical tools the SEC intends to use to review offerings going to be shared with the states?

Answer:

All analytical tools developed by the SEC for the Edgar operational system will be made available to the states. The states will not have to duplicate the development process, but will be responsible for the operation and maintenance of their analytical process.

Question:

The communication protocol has been worked out between the SEC and its regional offices. Why can't the states be included? (If you can do it for 10 regional offices, why not 50 states?)

Answer:

There is no economic advantage to the federal government to include the states communication requirements as part of the SEC regional office traffic. SEC's regional office traffic is primarily for dissemination through public reference terminals and will be supported by the Receipt & Dissemination system to be paid for by the contractor, not the SEC internal system.

Question:

Will Edgar interface with the securities violators bulletin? Will "bad boys" be kept out of offerings electronically rather than manually?

Answer:

The securities violators bulletin, recently renamed the Litigation and Proceeding Bulletin (LAP) is prepared from information received from local state, and federal agencies and self-regulatory organizations. Its preparation is not expected to be changed by Edgar. Similarly, its access, both in paper and on-line, is not expected to be changed by Edgar.

While the SVB provides valuable information for the disclosure process, the Commission has not excluded persons from participating in registered public offerings under the Securities Act of 1933. The Commission has excluded "bad boys" from using the limited offering exemptions contained in Regulation A and Rule 505 of Regulation D.

Question:

Has the identification process for signatures been thoroughly worked out?

Answer:

In the Edgar pilot, personal identification numbers (PINs) are used to sign filings made by direct transmission. PINs were chosen because they meet legal requirements for signatures and require no special equipment on the part of filers. In practice, PINs have caused some administrative difficulties for filers. The staff has explored other technological means to sign filings, as well as rulemaking alternatives that fulfill the legal requirements for signatures. It appears that PINs are the only technological means currently available at a reasonable cost. There are, however, several rulemaking alternatives we are exploring that would not require the use of PINs. They include, for example, typed and authenticated signatures. These rulemaking alternatives will be released for public comment in an advance notice of proposed rulemaking.

Question:

Will Edgar work economically if the states are not participants?

Answer:

Edgar will provide substantial benefits to the Commission, filers and the investing public and will work economically without state participation. State participation, would provide significant additional savings to issuers of new securities and increase the efficiency of the capital raising process. It is for this reason that the Commission has been working closely with the North American Securities Administrators Association for the past three years to include the states in the Edgar system.

Question:

What are the incentives to encourage states to participate?

Answer:

The most significant incentive to state participation in Edgar is the improved access to filing information. Not only will required state filings be available, but also periodic reports and other material not currently filed with the states. The information also will be in machine readable form thereby permitting additional analysis. Finally, state participation in Edgar will substantially ease the burden of filing information with the states thereby perhaps lessening resistance to state securities regulation.

Question:

How will selective review criteria be handled by Edgar?

Answer:

The same selective review criteria applied to paper filings will be used under Edgar. However, under Edgar, the information necessary to make the selective review decision will be automatically recorded onto preformatted screening sheets and made available to the screener without the need for time-consuming manual retrieval.

Edgar also will permit easier refinement of the criteria and more flexibility in determining the filings which will be subject to selective review. For example, the selection universe can be expanded to include filings which reflect recent marketing innovations developed by the securities industry. Similarly, the criteria can, when necessary, be geared to a particular industry and be based on the most recent available financial statements. Edgar also will permit the combining of criteria, the addition or deletion of filings and other revisions to be implemented on an expedited basis.

Question:

Will Edgar result in actual higher operational costs for the federal government or state governments?

Answer:

The qualitative and quantitative productivity improvements made possible by Edgar should in the long term result in a net savings in federal and state operational costs. In the first three to four years both levels of government will experience start-up and developmental costs requiring higher operational budgets. Since the states will have a similar receipt and review capability, it is reasonable to assume that they will achieve similar productivity and savings.

However, the most important benefits from Edgar will be the tremendous filing efficiencies realized by registered companies, increased investor protection through electronic full disclosure, and, faster and better information available for the investing public.

QUESTIONS FOR THE RECORD SUBMITTED BY MR. EARLY

The FY 86 appropriations bill restored 80% of the funds associated with the proposed 5% pay cut. How did the SEC accommodate the amount it was required to absorb?

Answer:

In 1986, the SEC had $2,857,000 withheld by OMB for a proposed 5% pay cut. Congress restored $2,460,000 and required that the difference of $397,000 be absorbed. Prior to the implementation of Gramm-Rudman-Hollings, the SEC had planned to maintain appropriated staffing levels and achieve the absorption through reductions in the average cost of staff and in administrative overhead expenses.

Please summarize how the SEC will make the reductions required under the March 1 sequestration order and the impact this will have on these activities.

Answer:

The Gramm-Rudman-Hollings sequestration will reduce the SEC's 1986 appropriation $4,777,000, 4.3% from $111,100,000 to $106,323,000; and sixty staff years, 3% from 1,994 to 1934.

The sequestration will be absorbed in SEC budget accounts as follows:

	$(000)	%Reduction
Salaries (60 staff years)	$2,482	- 3.5
Personnel Benefits	295	- 3.5
Travel	100	- 3.8
Communication and Rentals	300	- 2.2
Printing	50	- 4.2
Contractual Services	1,300	-13.0
Supplies	50	- 3.2
Equipment	200	-11.1
	$4,777	- 4.3%

The 60 staff year cut would reduce activities in all SEC programs from the levels planned under the 1986 appropriation.

- Annual report reviews will decline from 20% to 18%.
- Enforcement actions brought will drop 3%.
- Broker-Dealer "for cause" will fall 4% while oversight exams will decline 7%.
- I/C registration reviews and amendments will decrease 2%.
- Litigation undertaken by the General Counsel will fall 5%.
- The volume of economic analyses of SEC rules will decline 5%, and
- Computer systems development and maintenance will drop 8%.

Are there any particular areas where you have concerns about the adequacy of resources because of this reduction?

Answer:

The Gramm-Rudman-Hollings sequestration will eliminate or erode increases in the enforcement and investment management areas which were approved by the Congress in the 1986 appropriation bill.

The FY86 bill included a modest amount of additional resources and positions for the enforcement and investment management activities. Have these increases been negated by Gramm-Rudman-Hollings or has the SEC been able to allocate additional resources to these areas? If so, how were you able to accomplish this?

Answer:

Thanks to the increases provided for these programs in the 1986 appropriation, these programs will retain staff at or above 1985 levels, where some other SEC programs will experience some decline.

The 1986 appropriation provided an additional 6 staff years for the enforcement program and an additional 8 staff years for the investment management program. The Gramm-Rudman-Hollings reductions, entailing even cuts across agency programs, projects, and activities, resulted in a 3% staffing reduction. Therefore, while the reduction was taken from a higher base in enforcement and investment management, it effectively eliminated the increases.

What impact, if any, will the G-R-H reductions have on the Commission's automation and productivity program?

Answer:

As a result of Gramm-Rudman-Hollings reductions, no significant enhancements will be made in the Commission's productivity improvement through computers (PIC) program. Further, some current ADP service contracts may have to be curtailed or forgone. These include LEXIS and NEXUS services used to speed legal research, the purchase of data bases to assist the economic impact analysis of Commission policies and rules by the Chief Economist, and requests for special searches of Compustat in enforcement investigations.

The budget justification indicates that market activity and growth continues to trigger increased workloads in all areas of the program. Yet, your budget request is a little over $1 million less than the FY 86 enacted appropriation level. How well do you think this budget request will enable the SEC to handle these increased workloads?

Answer:

The Commission's 1987 budget will provide the SEC with the staff and funding necessary to maintain strong operations in all program areas. For example, in comparison with the 1986 appropriation, despite a projected increase in the number of filings, the Full Disclosure Program staff will review the same percentage of new and repeat 1933 Act registrations and slightly enhance its review of new 1934 Act registrations. Despite a projected 5% increase in annual reports, staff reviews of these filings will drop less than 1% from 20.0 at the 1986 appropriation level to 19.1. The 1987 budget will provide sufficient resources for the enforcement staff to conduct the same number investigations and proceedings as planned under the 1986 appropriation. In the securities market regulation area, resources will be available in 1987 to conduct the same number of SRO inspections as projected under the 1986 appropriation. The staff will also conduct the same number of broker-dealer cause examinations, while oversight exams will decline a mere 2%. The investment management staff will conduct 1% more investment company inspections and 17% more investment adviser inspections in 1987 than planned under the 1986 appropriation. The staff will also review 3% more investment company registrations and receive and process 19% more investment adviser registrations.

How will you accommodate these increases in workload with this budget request?

Answer:

Through automation, paperwork reduction and other staff initiatives, the staff will accommodate the increasing workload. For example, the full disclosure staff has reorganized and eliminated certain non-review functions in order to increase filings reviews. The enforcement staff has coordinated enforcement activities with the Department of Justice, the states and the self-regulatory organizations to improve overall enforcement of the markets. Market regulation staff has streamlined broker-dealer examinations and improved training for the field inspection staff. The investment management staff has developed a systems approach to inspections of investment company complexes. Using these procedures, companies that are part of a complex of funds can be inspected far more efficiently than individual companies. Further new inspection procedures for financial planners that focus on potential conflicts of interest areas are being developed to improve oversight of these entities. The staff will also employ a system that permits electronic transmission of inspection reports between headquarters and field offices.

Will you be able to at least achieve the program levels envisioned in the FY 86 bill? Will you be able to handle the same percentage of reviews, investigations, actions, etc.?

Answer:

In 1987, most critical Commission activities will be sustained and some will even be increased over the levels proposed under the 1986 appropriation. Slight declines will occur in reviews of annual reports and oversight examinations of broker-dealers.

Will you be able to maintain the quality of work or do you feel it will be impaired?

Answer:

The quality of the Commission's work will be sustained in all program areas with the funding requested in 1987.

Do you think that the Commission could effectively utilize additional resources in any areas? In what areas? How would you classify these in terms of priority?

Answer:

The Commission could effectively utilize the additional resources provided by the 1986 appropriation in the enforcement and investment management areas. Both of these areas are top Commission priorities.

What was the FY 87 SEC request submitted to OMB? Please provide a breakdown of this request by program areas, amounts positions and staff years.

Answer:

FY 1987 REQUEST TO OMB

		PERMANENT	
PROGRAM	AMOUNT $(000)	POSITIONS	STAFF YEARS
Full Disclosure	$31,790	543	493
Prevention and Suppression of Fraud	36,964	677	627
Regulation of Securities Markets	14,720	261	254
Investment Management Regulation	12,156	232	217
Legal Services	7,415	130	120
Economic & Statistical Research	2,535	46	43
Program Direction	13,509	283	260
TOTAL	$119,089	2,172	2,014

Did the agency managers request any additional manpower resources for FY 87 and, if so, for what areas were they requested?

Answer:

Yes. Managers for the following programs sought the additional staff years indicated.

Full Disclosure	+37.5 staff years
Prevention and Suppression of Fraud	+18.0 staff years
Supervision and Regulation of Securities Markets	+ 9.5 staff years
Investment Management Regulation	+12.0 staff years
Legal Services	+ 1.5 staff years
Economic & Statistical Research	+ 5.0 staff years
Program Direction	+ 6.8 staff years

What effect would a reduction in your FY 87 budget request have on the Commission's ability to carry out its responsibilities?

Answer:

It is difficult to provide an answer to this question without knowing the magnitude of the reduction involved. If, for example, the Commission were required to continue the Gramm-Rudman-Hollings 1986 funding level into 1987, SEC staffing would drop a minimum of 2% from 1986 Gramm-Rudman-Hollings levels. These reductions would affect all program areas. Staffing for the Full Disclosure, Prevention and Suppression of Fraud, Regulation of Securities Markets, Legal Services and Program Direction programs would drop below 1985 levels, eroding the Commission's ability to handle the mounting workload. Only the Investment Management Regulation program would remain above its 1985 staffing level, but by a mere 3 staff years and well out of proportion to industry growth in this area.

Staff Years

	1985	1986 G-R-H	1987 Continuation of G-R-H
Full Disclosure	447.6	450.5	443.1
Prevention & Suppression of Fraud	609.0	609.3	595.8
Regulation of Securities Markets	243.3	233.1	226.5
Investment Management Regulation	202.8	209.7	205.4
Legal Services	120.5	116.8	114.5
Economic & Statistical Research	41.3	40.0	39.2
Program Direction	249.8	254.6	249.4
Total Staff Years	1914.3	1914.0	1874.0
Dollars ($000)	$105,568	$106,323	$106,323

What is the status of the EDGAR project? Have the concerns previously raised by GAO been addressed?

Answer:

- Phase 1 was concluded on schedule on September 24, 1984 with the receipt of the first electronic filing. This culminated a five-month effort to develop the hardware and software required to receive and review filings.
- Phase II concluded in June, 1985. During this phase, the system was enhanced with:
  - electronic mail to speed filer-SEC communications
  - workstation access to external data bases, such as LEXIS, to assist the review of filings
  - keyword search capabilities to permit scanning of the entire data base for specific names or phrases

- electronic file folders which contain all material relating to a filing or filer, and
- public utility holding companies were added.

- Phase III is due to conclude in April 1986. The system is being enhanced with:
  - improved filing displays
  - synonym searching
  - automatic registrant notification
  - instant access to SEC rules
  - experiments with data tagging, including artificial intelligence, are being conducted to facilitate analysis of financial statements.

- The number of filers has been increased from 150 in Phase I to 372 in Phase III, due primarily to the addition of investment companies and unit investment trusts.

- Two of the major issues previously raised by GAO have been addressed while others continue to be part of the ongoing GAO review scheduled to end in June, 1986.
  - In response to the GAO's concern that there be more interaction with the information industry and other members of the public interested in electronic filing, the SEC redoubled its efforts to gain public review and comment. These efforts have included meetings with:
    - individual State Administrators and the North American Securities Administrators Association
    - information industry representatives
    - the stock exchanges
    - users of SEC data
  - The other major concern of GAO regarding the need for specific procurement authority from GSA has prompted the SEC to proceed with an agency request to receive a delegation of procurement authority for the operational system.

- The issues presently under review in the GAO pilot study are the project's contracting practices and the capability of the staff working on the project, both SEC employees and contractor personnel.

Would you comment on the matter of the purchase of stock and of options of the same stock raised in Sunday's Washington Post. Is this an area that requires closer monitoring?

Answer:

The February 16, 1986, Washington Post article discusses market fluctuations, particularly on expiration Fridays, that have been associated with strategies involving the trading of options and futures contracts on stock indexes in conjunction with the purchase or sale of the stocks which underlie those contracts. This activity has been variously described as program, basis or arbitrage trading.

To date, the Commission and the relevant markets have taken a number of steps to address this matter. The securities exchanges and NASD, in conjunction with the SEC, CFTC and futures exchanges, have developed enhanced surveillance procedures to monitor stock index options and futures trading and related stock market activity, particularly at options and futures expiration. The exchanges also have provided investors specific disclosure of the potential risks to investors as a result of such trading activity in connection with recent revisions to the options disclosure document. In addition, the Commission staff has written the exchanges and NASD asking them to explore further specific measures that might ameliorate the concerns in this area. The SROs are currently conducting a study on the so-called "expiration Friday phenomena" and its effect on the options, futures and stock markets. This report should provide a better understanding of the effects of these derivative products on short-term volatility in the market and should aid the Commission in developing any necessary regulatory response.

Would you also comment on the issue raised concerning rumors concerning purported takeover targets and their effect on the market. How serious is this problem?

Answer:

There have been a number of instances during the past several months where it appears that rumors regarding corporate developments, frequently mergers, have caused stock prices to move significantly in the absence of public announcements. In some of these cases, subsequent developments confirmed the truth of the rumors, which suggest that non-public information may have been leaked to persons who purchased the securities. The rumors in other cases turned out to be false, which suggests that they might have been generated by persons who intended to trade on the expected market reaction.

Because large scale trading distortions resulting from rumors could undermine public trust in the integrity of our securities markets, the Commission has addressed the problem in several contexts:

- The Division of Enforcement is currently investigating the trading activity in approximately 12 stocks which were the subject of rumors;
- The Commission issued a public report of investigation in which it addressed the issue of a corporation's duty to disclose merger negotiations; and
- On February 19, 1986, the Commission sponsored a roundtable conference in which members of the Commission and representatives of the business, legal and financial communities discussed the issues raised by the existence of rumors in the marketplace, including the disclosure obligations of issuers and the appropriateness of trading halts.

It should be noted that, while the existence of rumors is a matter of concern to the Commission, the number of stocks which have been affected by such rumors is quite small when compared to the overall market.

Why are you proposing a decrease in positions for the SEC's regional offices?

Answer:

The decrease of 21 in the overall regional office staffing level results from the closing of the Arlington Office and enhancement of the Philadelphia Branch Office to regional office status. To effect the change, some slots are immediately being transferred to Philadelphia. The Arlington Office's broker dealer examination and investment company and investment adviser regulation staff's will be housed in the headquarters building, but will report to Philadelphia. There are two program areas, however, where Arlington Office staff will be merged into headquarters operations in order to increase program efficiencies: Full Disclosure and Prevention and Suppression of Fraud.

Three positions will be allocated to the Division of Corporation Finance's Small Business Policy Office, where it is envisioned that they will be devoted to handling the Washington area small business filing needs as well as available to assist the division on other small business projects.

Eighteen positions will be transferred from the Washington Regional Office and allocated to the Division of Enforcement. These staff will continue to pursue their current caseload. As this caseload is completed, they will be available to handle cases arising both within and outside of the Washington area, thereby increasing the enforcement staff's flexibility.

It should be noted that staff levels for all SEC programs are not affected by the closing of the Arlington Office.

Please summarize the findings of the Commission's study concerning the government securities markets.

Answer:

The Commission summarized its government securities market report in an Executive Summary, which follows:

EXECUTIVE SUMMARY

1. Response to date by the market, investors, state and federal regulators and dealers to the ESM and BBS failures.

A. Market Response:

1. Acting Assistant Secretary of the Treasury Niehenke testified at the open SEC meeting that the failures have not had a perceptible adverse impact on the cost of financing of the national debt.

2. Some commentators have indicated that some investors have withdrawn from the government and repo market, especially the GNMA repo market.

B. Many investors are:

1. perfecting their security interests in repos;

2. not providing excess margin in reverse repo transactions;

3. limiting their dealings to better known and capitalized dealers, particularly regulated or primary dealers.

C. Regulatory bodies have taken the following actions:

1. The federal Financial Institutions Examination Council has proposed, and the FRB and FDIC have adopted, guidelines for securities lending activities requiring adequate collateralization.

2. The FHLBB has rearticulated its investment guidelines for savings and loan associations and is considering requiring securities and underlying repos to at least equal the value of the repo, possession or third party control of these securities, dealings only with regulated broker-dealers, and frequent marking-to-market of securities.

3. Municipal investment regulators, such as the NY State Comptroller, the State of New Jersey, and a number of municipalities, have issued or are considering issuing strict standards requiring possession or third party control of securities underlying repos, limiting the dealers that can be used, or prohibiting repos.

4. The FRB has issued voluntary capital adequacy guidelines, stepped up its visits to dealers, and issued educational materials, such as "Its 8:00 a.m. -- Do You Know Where Your Collateral Is?" Individual Federal Reserve Banks are holding educational seminars for investors.

5. The SEC has recently brought enforcement actions against certain government securities dealers and individuals associated with those dealers; is investigating the conduct of other persons who were affiliated with those government securities dealers; and is conducting examinations of certain government securities dealers who have voluntarily agreed to the examinations.

6. It has been reported that other federal and state law enforcement authorities are examining the conduct of certain government securities dealers and persons associated with those dealers.

7. The SEC Division of Investment Management has reiterated to all investment companies the need to perfect and maintain a security interest in repos (i.e., the need to take possession of securities and to mark them to market).

8. The SEC Chief Accountant's office and Division of Corporation Finance are preparing a proposed release which would require greater disclosure of repo activities and risks by registrants.

9. The AICPA has formed a task force to address repo auditing issues. The Government Accounting Standards Board and the AICPA are also working on repo disclosure projects. These initiatives have occurred under SEC oversight.

II. The FRB, Treasury and SEC differ somewhat in their views of the necessity for legislation. If Congress concludes that additional legislation is to be enacted, they would find the following approach acceptable.

A. All currently unregulated dealers in Treasury or government-sponsored agency securities to be registered. Information on these dealers to be accessible to all relevant regulators. The SEC and the Treasury differ as to which should be the registrar.

B. The SEC and the bank regulators to be granted the authority to provide sanctions against or to bar those who violate either the securities or the banking laws.

C. The Treasury, in consultation with the FRB, to be granted authority to adopt rules as necessary on:

   (1) capital,

   (2) independent audit and recordkeeping,
   (3) collateralization (e.g., segregation or delivery requirements), margin, and when-issued trading practices.

D. (1) All government and agency securities dealers to be subject to C(3);

   (2) Presently unregulated dealers to be subject to C(2) as well;

   (3) All others to continue to be subject to SEC or banking agency capital and recordkeeping requirements.

E. Inspection and rule enforcement of

   (1) non-bank dealers by existing self-regulatory organizations, under SEC oversight, including inspections;

   (2) bank dealers by banking agencies.

III. FRB to continue to exercise surveillance over primary dealers.

IV. While the Commission has not conducted a formal cost-benefit analysis, if legislation is to be enacted the Commission recommends the following approach.

A. All currently unregulated dealers in Treasury or government-sponsored agency securities to be registered with the SEC. Information on these dealers to be accessible to all relevant regulators.

B. The SEC and the bank regulators to be granted the authority to provide sanctions against or to bar those who violate either the securities or the banking laws.

C. The Treasury, in consultation with the FRB, to be granted authority to adopt rules with respect to currently unregulated dealers in Treasury or government-sponsored agency securities as necessary on:

(1) capital,

(2) independent audit and recordkeeping.

D. All others to continue to be subject to SEC or banking agency capital and recordkeeping requirements.

E. Inspections and rule enforcement of

(1) non-bank dealers by existing self-regulatory orgainizations, under SEC oversight, including inspections;

(2) bank dealers by banking agencies.

F. FRB to continue to exercise surveillance over primary dealers.

MONDAY, FEBRUARY 24, 1986.

COMMISSION ON CIVIL RIGHTS

WITNESSES

CLARENCE M. PENDLETON, JR., CHAIRMAN

J. AL LATHAM, JR., STAFF DIRECTOR

SUSAN MORRIS, ASSISTANT STAFF DIRECTOR FOR PROGRAMS AND POLICY

ALBERT MALTZ, ASSISTANT STAFF DIRECTOR FOR ADMINISTRATION

WILLIAM HOWARD, DEPUTY GENERAL COUNSEL

JANE MAYNE, BUDGET OFFICER

OPENING STATEMENT

Mr. DWYER. The next Commission whose budget we will review is that of the Commission on Civil Rights. Here to testify is the Hon. Clarence Pendleton, Jr., the Chairman of the Commission. We also have with us the new staff director, Mr. Al Latham, Jr.

At this point we will insert the biographical sketch of Mr. Latham in the record.

[The statement of Mr. Pendelton and the biography of Mr. Latham follow:]

February 24, 1986

STATEMENT OF
HONORABLE CLARENCE M. PENDLETON, JR.
CHAIRMAN
UNITED STATES COMMISSION ON CIVIL RIGHTS
BEFORE THE
SUBCOMMITTEE ON THE DEPARTMENTS OF
COMMERCE, JUSTICE, STATE,
THE JUDICIARY AND RELATED AGENCIES
OF THE COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Committee, I am Clarence M. Pendleton, Jr., Chairman of the U.S. Commission on Civil Rights. With me are J. Al Latham, Jr., Staff Director; Susan Morris, Assistant Staff Director for Programs and Policy; Albert Maltz, Assistant Staff Director for Administration; William Howard, Deputy General Counsel; and Jane Mayne, Budget Officer.

I am pleased to appear before you today to testify in support of the President's request for $12,576,000 and 233 full-time equivalent positions for Fiscal Year 1987. The appropriation for Fiscal Year 1986 was $12,300,000, but under the sequestration order pursuant to Public Law 99-177 (Gramm-Rudman-Hollings), $529,000 was sequestered from our 86 appropriation. Therefore, our funding level for the current year is $11,771,000. The FY 1987 request represents an increase of $805,000 over the adjusted FY 1986 appropriation.

The increase in the request over the 1986 level represents principally anticipated inflation and increases in fixed costs such as rent and salaries. I therefore wish to stress that, although the FY 1987 request reflects an increase over FY 1986, it does not represent a substantial expansion of the Commission's operations at a time of government-wide fiscal restraint. Indeed, the FY 1987 request of $12,576,000 remains below the agency's actual FY 1985 obligations.

Before turning to the Commission's plans for the current fiscal year and for FY 1987, I would like to briefly summarize, Mr. Chairman, the work of the Commission in Fiscal Year 1985. Our accomplishments that year included, for example:

- Publication in January 1985 of a report entitled Toward an Understanding of Stotts.

- A March 1985 consultation/hearing on affirmative action topics in employment and business set asides.

- Publication in March 1985 of a directory of State and local fair housing agencies.
- A June 1985 hearing on protection of handicapped newborns.
- Publication in June 1985 of a report, Comparable Worth: An Analysis and Recommendations.

In addition, various other reports, studies, and factfinding activities of both headquarters and the 51 State Advisory Committees to the Commission were in progress in FY 1985 and continue in Fiscal Year 1986. These continuing projects are described in more detail in our Appropriation Request before you today.

Turning to the current fiscal year, I must first address the impact of Gramm-Rudman-Hollings. As the Staff Director pointed out in his cover letter to the Request for Appropriation, the Commission is a labor-intensive agency. Seventy percent of our budget is directly related to personnel costs, and 20 percent is dedicated to such fixed costs as rent and annually contracted equipment maintenance. A small agency, such as the Commission, with 90 percent of the budget devoted to nondiscretionary items, is obviously impacted substantially by the FY 1986 Gramm-Rudman-Hollings sequestration. Nevertheless, as the Staff Director pointed out in his letter, every effort is being made to cut costs without conducting a reduction in force. For the remainder of FY 1986, and on into future years, programmatic flexibility will be essential to meeting our statutory responsibilities while living within our budgetary means.

For the current fiscal year we have a busy agenda. It includes, for example, four hearings. One of these, a consultation/hearing on discrimination in housing, took place in November 1985. Hearings will be held later this year on voting rights and Indian tribal justice and enforcement of the Indian Civil Rights Act of 1968. A further hearing following up last year's handicapped newborns hearing is also likely. In addition, we anticipate other activities in FY 1986, such as the following:

- Publication of a study of violence and bigotry against Asian and Pacific Island Americans.

- Publication of a study concerning employment of Americans of Eastern and Southern European ancestry (a report mandated by Congress).

- Publication of another extensive directory, covering private fair housing organizations nationwide.

- Publication of some of the analyses of the causes of income and employment differences between men and women, and among racial and ethnic minorities.

Meanwhile, work on other projects advances, a limited number of new projects are in the planning stage, and the State Advisory Committees are carrying out their programs across the Nation. Our Appropriation Request provides detail on all of these activities.

Finally, Mr. Chairman, I would like to highlight the Commission's program plans for Fiscal Year 1987. Our appropriation request of $12,576,000 includes funding for activities such as the following:

- Publication of the first major Federal equal employment enforcement study by the Commission since 1977.

- Completion of a major study of voluntary and involuntary methods of achieving school desegregation.

- Publication of a study of State and local civil rights enforcement in vocational rehabilitation programs.

- Publication of the first major assessment by the Commission of the effectiveness of the 1982 Voting Rights Act amendments.

- Publication of additional studies analyzing the sources of differences in income and employment between men and women, and among racial and ethnic minorities.

- Completion of a project reviewing the scope and implementation of the Civil Rights Attorney's Fees Awards Act of 1976.

- Initiation of important new studies to determine, for example, the extent and nature of discrimination against the aged, in employment and educational testing, and in housing.

Similarly, the State Advisory Committees will complete various projects, progress with others, and plan new ones in FY 1987 as they continue to carry out their mandated roles. Details on these projected FY 1987 activities also are provided in our submission.

I believe that the work of the Commission and its 51 State Advisory Committees remains important to the wellbeing of the Nation. I know that my colleagues on the Commission join me in that belief.

Mr. Chairman, that concludes my opening statement. I will be pleased to answer questions concerning the program plans we have proposed or the work of the Commission in general.

UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

J. AL LATHAM JR.

J. Al Latham Jr. was appointed Staff Director of the U.S. Commission on Civil Rights on December 3, 1985. A Republican, Latham was appointed by President Reagan to serve an indefinite term.

Before being appointed to the post, Latham served as chief counsel to National Labor Relations Board member Patricia Diaz Dennis. From 1976 to 1983 he was an attorney with the law firm of Paul, Hastings, Janofsky and Walker in Atlanta and Los Angeles.

Latham was born in Kinston, N.C. on September 16, 1951. He graduated cum laude from Yale University (B.A., 1973) and Vanderbilt University Law School (J.D., 1976) where he served as articles editor on the Vanderbilt Law Review.

Latham is a member of the California, District of Columbia and Georgia Bars. He is also a member of the American Bar Association (ABA) and serves on the ABA's Committee on the Development of Law under the National Labor Relations Act.

Latham resides in Alexandria, Va. with his wife Elaine Frances Kramer.

12/85

Mr. Dwyer. The budget request for fiscal year 1987 is $12,576,000, which represents an increase of $805,000 above the 1986 adjusted appropriation of $11,771,000, after the Gramm-Rudman sequestration of $529,000 has been deleted from the original appropriations act.

At this point we will insert the justifications in the record.

[The justifications follow:]

COMMISSION ON CIVIL RIGHTS

REQUEST FOR APPROPRIATION

FISCAL YEAR 1987

E PLURIBUS UNUM

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425

STAFF DIRECTOR

February 14, 1986

Honorable Neal Smith
Chairman
Appropriations Subcommittee on Commerce, Justice,
State, The Judiciary and Related Agencies
H-309 Capitol Building
Washington, D.C. 20515

Dear Mr. Chairman:

The United States Commission on Civil Rights is pleased to submit to the Committee for its consideration the Commission's Request for Appropriation, Fiscal Year 1987. We have set forth in the text our accomplishments in fiscal year 1985, our accomplishments and plans for the current fiscal year, and the Commission's fiscal year 1987 plans in justification of this request.

We fully recognize in this submission the requirement of the President and the Congress that the Commission on Civil Rights carry out its legal mandate while operating within current fiscal constraints. We are also very cognizant of the desire to limit the negative impact of these constraints on our programs and staff and, indeed, are making every effort to do so.

The Commission is, and historically has been, a labor-intensive agency: 70% of this budget submission is directly related to personnel costs, and 20% is dedicated to such fixed costs as Standard Level User Charges and annually contracted equipment maintenance. Discretionary amounts are limited to only 10% of this budget request. Nevertheless, we have elected not to have a reduction-in-force at this time, but to attempt to carry out the agency's mission while reducing costs in all other possible ways.

For example, for the current year, FY 1986, we have imposed a freeze on hiring new personnel with limited exceptions on a case-by-case basis. We have cut our managers' stated requirements in overtime pay by 75% and have cut by lesser amounts their travel, supply, and equipment allocations. We have reduced our space utilization by consolidating our Washington regional office with headquarters. Further, we intend to ask the Office of Personnel Management for "early out" authority, and only as a last resort will we consider furloughing members of the workforce.

In order to live within our budgetary constraints while avoiding a reduction-in-force, programmatic flexibility is vital. Our submission is therefore formatted as one program activity. This realistically reflects the agency's small size and the integrated nature of the Commission's research and information-gathering mission, is consistent with the President's proposal, and affords the flexibility necessary to meet our obligations without adversely impacting our employees.

Your consideration of the United States Commission on Civil Rights' budget request of $12,576,000 for Fiscal Year 1987 is greatly appreciated.

Sincerely,

J. AL LATHAM, JR.

GENERAL STATEMENT

BACKGROUND

The primary function of the United States Commission on Civil Rights is to provide the information and insights required in order that officials of the Federal Government and the public may have both objective and expert evidence on the status of civil rights protections in this country. Thus the charter establishing the agency first charges the Commission to investigate allegations that certain citizens are being deprived of their right to vote by reason of their color, race, religion, sex, age, handicap, or national origin, or by reason of fraud. Second, the Commission is charged to study and collect information on legal developments or developments in the administration of justice that constitute discrimination or the denial of the equal protection of the laws. This second function is also the basis for the Commission's studying and collecting information on developments generally that arguably constitute discrimination or denial of the equal protection of the laws. Third, the Commission is charged with appraising--actively judging and evaluating--the effectiveness of Federal civil rights statutes and policies. Finally, the Commission is required to serve as a clearinghouse of information on civil rights, especially on discrimination and denial of the equal protection of the laws.

In fulfillment of the Commission's statutory mandate, its research and information-gathering necessarily covers several different classifications or categories:

Enforcement Studies (including Voting Rights studies*)

Analytic Studies of the Nature and Extent of Discrimination

Reports on the Adequacy/Inadequacy of Existing Legal Protections of Civil Rights

Manuals or Guidelines to Provide Private Citizens with Knowledge About Their Civil Rights

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*The duty in the charter of the Commission to investigate allegations that people are being denied their right to vote by reason of race or any other forbidden basis dates back to 1957, long before the Voting Rights Act of 1965. With the passage of the Voting Rights Act of 1965, what otherwise would be a separate heading of research and information-gathering is now included under "Enforcement Studies."

Major Research Efforts Directed at a Better Understanding of What is Needed to Achieve a Stable Multi-Ethnic, Multi-Racial Society

In addition, from time to time, the Commission publishes various bibliographies on civil rights issues and case studies of topical concern in civil rights.

Ultimately, the Commissioners of the Commission on Civil Rights have the responsibility for determining the research and information requirements of the agency. For example, passage of Federal civil rights legislation, such as the 1982 Amendments to the Voting Rights Act of 1965, may prompt the Commissioners to decide that a major enforcement study to determine the effectiveness of the new statute is required. Because of emerging controversy over a new concept - comparable worth, for example - the Commissioners may decide that a thorough investigation and analysis of the new issues presented is required. Thus, the Commission decided to invest considerable time and effort in the comparable worth consultation held in 1984 and reported on in three volumes released in 1985. Also, public concern about the Federal enforcement of civil rights guarantees may dictate a major enforcement study. Accordingly, the newly constituted Commission on Civil Rights initiated in FY 1984 the first comprehensive equal employment enforcement study since 1977.

In the following descriptions of the Commission's accomplishments, and, as appropriate, plans for each fiscal year, the investigations, consultations and hearings, reports, studies, and fact finding that the Commission conducted are classified according to major purpose--enforcement study, analysis of the extent of discrimination, etc. Clearly some projects cover more than one purpose; for example, the "Issues in Housing Discrimination Consultation/Hearing" dealt with enforcement, the nature and extent of discrimination in housing, and the adequacy of the Federal Fair Housing Act of 1968. Furthermore, since the work of the Commission is paralleled by the 51 State Advisory Committees (SACs) that serve as the eyes and ears of the national commission on the State and local levels, their reports, projects, and community forums are included in the itemization of the agency's research and information-gathering activities. In addition to these functions, the SACs monitor potential or actual threats to civil rights at the State and local levels and disseminate recommendations contained in Commission and State Advisory Committee reports.*

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*Composed of men and women selected in accordance with the Federal Advisory Committee Act, the SACs receive administrative support from the ten regional offices of the Civil Rights Commission.

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COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

Fiscal Year 1986

Congressional appropriation for FY 1986	$12,300,000
P.L. 99-177 (Gramm-Rudman-Hollings)	-529,000
Subtotal FY 1986	$11,771,000
Budget estimate for FY 1987	12,576,000
Increase	$ 805,000

Appropriation Language

COMMISSION ON CIVIL RIGHTS

Federal Funds

General and special funds:

Salaries and Expenses

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, [$12,300,000] $12,576,000. (The Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriation Act, 1986.)

COMMISSION ON CIVIL RIGHTS

SUMMARY OF CHANGES

	1987 Request	
	Full-time Equivalent Employment	Amount
Summary of Changes:		
Appropriation 1986 (after P.L. 99-177)	236	$11,771,000
Adjustments to Base and Built in Changes:		
Gramm-Rudman-Hollings	...	529,000
Standard level user charge	...	39,000
Per Diem allowance revision	...	46,000
Personnel compensation and benefits	-3	71,000
Inflation for non personnel object classifications	...	120,000
Total adjustments to base	-3	805,000
Total appropriation requested	233	$12,576,000

COMMISSION ON CIVIL RIGHTS

EXPLANATION OF CHANGES

Standard Level User Charge .... $ 39,000

Even though our office space has decreased for Fiscal Year 1987 and the building joint use space has remained the same, the cost per square foot has increased.

Per Diem Allowance .... $ 46,000

Public Law 99-234 removes the statutory ceilings on reimbursements for civilian employees on domestic travel and authorizes the General Services Administration (GSA) to establish appropriate maximums administratively. Currently the maximum rate is $75 per day. GSA indicates it could rise to approximately $125 which is an increase of $50 per day.

Personnel Compensation .... $ 71,000

Movement in the Federal Government is anticipated to be very slow in Fiscal Year 1987; therefore, we project little turnover in employment. We will not be hiring new staff at step one of a lower career ladder grade, but rather will be incurring costs for periodic step increases and career ladder promotions of on board staff. This will be slightly offset by a decrease in full time equivalent employment of three.

Inflation $120,000

This increase will allow for anticipated inflation in non personnel object classes.

LEGISLATIVE AUTHORIZATION OF THE COMMISSION

The United States Commission on Civil Rights is an independent, bipartisan agency, originally established by the Civil Rights Act of 1957 (P.L. 85-315). Public Law 95-444 extended the life of the Commission through Fiscal Year 1983 and extended the Commission's jurisdiction to include discrimination because of age and handicap. The Commission was reestablished for a six-year term by the United States Commission on Civil Rights Act of 1983 (P.L. 98-183). The duties of the Commission, as enumerated in Sections 5(a) and 5(c) of P.L. 98-183, are as follows:

"Sec. 5(a) The Commission shall --

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin, which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

"(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

"(4) serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

"Sec. 5(c) The Commission shall submit reports to the Congress and the President at such times as the Commission, the Congress, or the President shall deem desirable."

Eight Commissioners, four appointed by the President and four appointed by the Congress, determine policy for the agency. A full-time Staff Director, also a Presidential appointee, is responsible for the day-to-day conduct and administration of the Commission's affairs.

COMMISSION ON CIVIL RIGHTS

Highlights of the Budget Request

The Fiscal Year 1987 appropriation request of $12,576,000 includes funding for the following:

- Publication of the first major Federal equal employment enforcement study since 1977
- The first major assessment by the Commission of the 1982 Voting Rights Act amendments
- Completion of the last four of seven key studies devoted to analyzing the sources of the differences in income and employment between men and women, and among racial and ethnic minorities
- Initiating important analytic studies to determine the extent and nature of discrimination against the aged, in employment and educational testing, and in housing.
- Beginning of comprehensive overview of the status of civil rights in the United States

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised.

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

95-1900-0-1-751	1985 ACTUAL	1986 ESTIMATE	1987 ESTIMATE
Program by activities:			
00.01 Direct program	12,606	12,300	12,576
01.01 Reimbursable program ...	28	19	...
10.00 Total obligations ..	12,634	12,319	12,576
Financing:			
14.00 Offsetting collections from: Non-Federal sources	-28	-19	...
25.00 Unobligated balance lapsing	263	...	...
40.00 Budget authority (Appropriation)...	12,869	12,300	12,576
Relation of obligations to outlays:			
71.00 Obligations incurred, net	12,606	12,300	12,576
72.40 Obligated balance, start of year...........	1,825	1,858	1,843
74.40 Obligated balance, end of year	-1,858	-1,843	-1,857
77.00 Adjustments in expired accounts	-57	...	...
90.00 Outlays	12,516	12,315	12,562

STANDARD FORM 300

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

Object Classification (in thousands of dollars)

95-1900-0-1-751	1985 ACTUAL	1986 ESTIMATE	1987 ESTIMATE
Personnel compensation:			
11.1 Full-time permanent	7,340	6,923	7,149
11.3 Other than full-time permanent	651	848	706
11.5 Other personnel compensation	74	91	95
11.8 Special personal services payments	134	34	...
11.9 Total personnel compensation	8,199	7,896	7,950
12.1 Personnel benefits: Civilian	890	847	864
13.0 Benefits for former personnel	7	19	10
21.0 Travel and transportation of persons	497	470	570
22.0 Transportation of things	32	38	40
23.1 Standard level user charges	1,200	1,200	1,239
23.2 Rental payments to others	200	203	211
23.3 Communications, utilities, and miscellaneous charges	370	428	445
24.0 Printing and reproduction	240	262	272
25.0 Other services	731	723	752
26.0 Supplies and materials	198	174	181
31.0 Equipment	42	40	42
99.0 Direct obligations	12,606	12,300	12,576
99.0 Reimbursable obligations	28	19	...
99.9 Total obligations	12,634	12,319	12,576

STANDARD FORM 300
July 1964, Bureau of the Budget
Circular No. A-11, Revised

COMMISSION OF CIVIL RIGHTS
SALARIES AND EXPENSES

Personnel Summary

Identification code 95-1900-0-1-751	1985 ACTUAL	1986 ESTIMATE	1987 ESTIMATE
Total number of full-time permanent positions	181	236	233
Total compensable workyears:			
Full-time equivalent employment	211	236	233
Full-time equivalent of overtime and holiday hours	1	...	...
Average ES salary	68,152	68,700	68,700
Average GS grade	10.62	10.63	10.71
Average GS salary	34,045	33,233	33,514
Average salary of ungraded positions	44,074	44,074	44,074

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STANDARD FORM 300
July 1968, Bureau of the Budget
Circular No. A-11, Revised.
300-180

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES

DETAIL OF PERMANENT POSITIONS

95-1900-0-1-751	1985 ACTUAL	1986 ESTIMATE	1987 ESTIMATE
Executive level V......................	1	1	1
ES-4..................................	7	9	9
ES-3..................................	2	...	...
Subtotal..............	10	10	10
GS/GM-15..............................	15	15	15
GS/GM-14..............................	27	27	27
GS/GM-13..............................	48	48	49
GS-12.................................	40	41	40
GS-11.................................	14	13	13
GS-10.................................	...	...	...
GS-9..................................	10	11	11
GS-8..................................	7	7	7
GS-7..................................	24	23	23
GS-6..................................	19	19	18
GS-5..................................	16	16	15
GS-4..................................	5	5	4
Subtotal.................	225	225	222
Ungraded..............................	1	1	1
Total permanent positions.........	236	236	233
Unfilled positions, end of year........	-55	...	...
Total permanent employment, end of year.................	181	236	233

58-651 651

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STANDARD FORM 300
July [illegible], Bureau of the Budget
Circular No. A-11, Revised.

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES
FY 1985

Program and Financing (in thousands of dollars)

Identification code 95-1900-0-1-751	Public Law 98-411	ACTUAL	DIFFERENC
Program by activities:			
00.01 Reports and studies	2,320	2,232	88
00.02 Hearings, legal analysis and legal services	2,083	1,971	112
00.03 Field operations	5,047	5,047	...
00.04 Publications preparation and dissemination	753	749	4
00.05 Federal evaluation	1,022	993	29
00.06 Liaison and information dissemination	1,244	1,214	30
00.07 Clearinghouse library ...	400	400	...
00.01 Total direct program	12,869	12,606	263

STANDARD FORM 300

COMMISSION ON CIVIL RIGHTS
SALARIES AND EXPENSES
FY 1986

Object Classification (in thousands of dollars)

Identification code 95-1900-0-1-751	Public Law 99-180	Public Law 99-177	Revised
Personnel compensation:			
11.1 Full-time permanent........	6,923	-298	6,625
11.3 Other than full-time permanent................	848	-36	812
11.5 Other personnel compensation....................	91	-4	87
11.8 Special personal services payments................	34	-1	33
11.9 Total personnel compensation................	7,896	-339	7,557
12.1 Personnel benefits: Civilian.................	847	-36	811
13.0 Benefits for former personnel................	19	-1	18
21.0 Travel and transportation of persons...............	470	-20	450
22.0 Transportation of things...	38	-2	36
23.1 Standard level user charges	1,200	-79	1,752
23.2 Rental payments to others..	203		
23.3 Communications, utilities, and miscellaneous charges	428		
24.0 Printing and reproduction..	262	-11	251
25.0 Other services.............	723	-31	692
26.0 Supplies and materials.....	174	-8	166
31.0 Equipment..................	40	-2	38
99.9 Total obligations.......	12,300	-529	11,771

58-651 653

COMMISSION ON CIVIL RIGHTS

SELECTED WORKLOAD FACTORS

	1985 Actual	1986 Estimate	1987 Estimate
Reports and Studies:			
Completed	3	7	8
In Process	12	10	8
Hearings/Consultations	2	4	3
Days	4	8	6
Transcripts	1	5	4
Publications	2	5	6
Briefing and Legal memoranda	98	120	120
Freedom of Information and Privacy Act Responses	80	95	110
State Advisory Committee:			
Planning Meetings	235	175	175
Special Work Assignments	54	40	40
Conferences	5	1	1
Publications:			
Edited and illustrated	8	15	13
Distributed	250,000	250,000	260,000
Complaints processed	3,575	4,000	3,800
Other Analyses	1	3	5
Number of times exhibits or publications at conferences	15	9	9
News conferences held	3	6	6
Press releases/advisories prepared	21	25	20
Issues of:			
Civil Rights Update	6	12	12
Press Report	252	251	250
New Perspectives	4	3	4
Congressional and other testimony	7	7	6
Comments to Congress on legislation	4	6	5
Comments to OMB	5	6	5
Responses to Congressional requests	426	450	450
Congressional mailings	6	12	10
Library volumes acquired	1,361	902	605
Bibliographies prepared	7	8	6

ACCOMPLISHMENTS IN FY 1985

ENFORCEMENT STUDIES

1. FEDERAL EQUAL EMPLOYMENT ENFORCEMENT

This evaluation of equal employment enforcement efforts by the Department of Justice (Civil Rights Division), the Department of Labor (Office of Federal Contract Compliance Programs), and the Equal Employment Opportunity Commission is the latest report by this agency assessing Federal civil rights enforcement. The last Commission study of equal employment enforcement was issued in 1977. This detailed report, initiated in FY 1984, is based upon an intensive review of agency performance data and documents and interviews with Federal officials, including the heads of these three agencies. In addition, a wide range of views in this area, such as those of civil rights groups and employers, is being reviewed in terms of the climate in which the Administration has discharged its equal employment enforcement responsibilities. The adequacy of the Administration's equal employment enforcement activities and the extent to which they reflect continuity or change in Federal enforcement policy will be assessed. Benchmarks for these conclusions include policies of the Commission on Civil Rights, the requirements of relevant civil rights statutes, judicial decisions, available resources, and agency priorities and objectives. Completion scheduled in FY 1987.

2. REDISTRICTING AND MINORITIES

This enforcement report, started in FY 1985, constitutes the first major assessment of the success of the 1982 Amendments to the Voting Rights Act of 1965 outlawing electoral systems which deny minority group members equal access to the political process. Because of the potentially discriminatory impact of gerrymandering electoral districts along racial lines, the report focuses on cases concerning racial gerrymandering that have arisen under the 1982 Amendments and on the opportunity that minority group citizens now have to participate in the redistricting process itself. The project logically divides into three components: (1) reviewing pertinent case law to determine how Federal courts have interpreted the 1982 Amendments as they apply to redistricting; (2) field investigations in the rural South to measure the impact that the 1982 Amendments have had on minority access to the political process; and (3) Department of Justice (Voting Rights Section) enforcement of the Voting Rights Act as amended. Among other things, the research will furnish the basis for an objective judgment of whether or not Federal enforcement of the Voting Rights Act has diminished under the Reagan Administration. This study is to be completed in FY 1987.

3. STATE CIVIL RIGHTS ENFORCEMENT IN VOCATIONAL REHABILITATION PROGRAMS

The purpose of this study initiated in FY 1984 is to assess the role of State agencies in enforcing Federal civil rights laws in State vocational rehabilitation programs funded under Title I of the Rehabilitation Act of 1973, as amended. As Federal recipients, State vocational rehabilitation agencies must comply with Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, and national origin in Federally assisted programs), Title IX of the Education Amendments of 1972 (nondiscrimination on the basis of sex), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination against the handicapped), and the Age Discrimination Act of 1975 (nondiscrimination on the basis of age). Further, under the Education Department General Administrative Regulations (EDGAR), vocational rehabilitation agencies are required to establish methods of administration to assure compliance with these laws. The study will examine the Federal/State partnership for civil rights enforcement that has actually evolved, enforcement procedures and mechanisms that are in place, and resources available for enforcement. The completed study will include findings and recommendations to the Executive Branch and Congress regarding enforcement of Federal civil rights laws in Federal/State vocational rehabilitation programs. Completion scheduled in FY 1987.

4. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Following are examples of SAC undertakings which were in progress during FY 1985:

- State Enforcement of Nondiscrimination Requirements in Education in Iowa, Kansas, Missouri, and Nebraska
- Minorities and Women as Government Contractors in Kansas
- Report on reapportionment in Rhode Island
- Community Forum in Miami on the Impact of Immigration Laws and Practices on South Florida
- Statewide Conference on Civil Rights Complaints Enforcement--Virginia

ANALYTIC STUDIES ON THE NATURE AND EXTENT OF DISCRIMINATION

1. INCOMES OF AMERICANS: ETHNIC, RACIAL, AND SEX DIFFERENCES

This multi-year project investigates the sources of differences in income and employment between men and women, and among racial and ethnic minorities. Differences in both individual earnings and in family income will be analyzed. The analysis will examine the extent to which the observed differentials can be attributed to factors such as labor market discrimination, government anti-discrimination legislation, schooling and work experience, years since immigrating to the United States, and family structure. The data that form the basis for these studies are to be drawn primarily from the 1940-1980 censuses, but will be supplemented by other data sources. The recent availability of the 1940 and 1950 censuses on tape makes it possible for the first time to conduct such a study using comparable definitions of income and the various factors. Given the scope of the project, it has been broken down into several separate studies. A substantial amount of work on the following studies was accomplished in 1985: (1) earnings and employment differences between black and white males; (2) earnings and employment differences between women and men and between black and white women; and (3) racial differences in the quality and quantity of schooling.

2. COMPARABLE WORTH: ANALYSIS AND RECOMMENDATIONS

In June 1985, the Commission issued Comparable Worth: An Analysis and Recommendations, an eighty-one page report detailing the Commission's objections to implementation of comparable worth as an anti-discrimination remedy. The report focuses on causes of the male/female earnings gap, the appropriate use of job evalution methodology, and the response by courts to sex-based wage discrimination claims based on comparable worth theory. Comparable Worth: An Analysis and Recommendations is based on independent research by Commission staff and on the Commission's consultation on comparable worth held the year before, at which eight panelists spoke in favor of comparable worth and eight spoke against it. The papers submitted by these experts and the transcript of their testimony, published as volumes one and two in FY 1985, were cited three times by the U.S. Court of Appeals for the Ninth Circuit in AFSCME v. State of Washington. In that decision, the Ninth Circuit reversed a lower court's validation of comparable worth theory as a legitimate wage discrimination theory under Title VII.

3. VIOLENCE AND BIGOTRY AGAINST ASIAN AND PACIFIC ISLAND AMERICANS

The purpose of this study is (1) to report on the nature and extent of recent acts of violence and harassment against Asian and Pacific Island Americans in the United States; (2) to examine what causes people to commit these acts, for example, bigotry, economic hardship, economic competitiveness, and/or envy; and (3) to describe how local law enforcement has dealt with the problem. The completed study should bring evidence to bear on how to deal with such violence and harassment forcefully and effectively. Project is to be completed in FY 1986.

4. EMPLOYMENT OF AMERICANS OF EASTERN AND SOUTHERN EUROPEAN ANCESTRY

Congress has specifically ordered the Commission to appraise Federal laws and policies with regard to equal protection of Eastern and Southern European ethnic groups. Accordingly, a report has been prepared and is currently undergoing internal Agency review. Leading authorities on issues concerning Euro-ethnic minorities, drawn from different disciplines, were consulted during the course of the study. Data from the 1970 and 1980 Censuses of Population were examined as part of an effort to assess whether discrimination against Eastern and Southern European ethnics has affected their economic status. Completion scheduled in FY 1986.

5. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Following are examples of SAC undertakings which were in progress during FY 1985:

- Equal Educational Opportunity in Los Angeles
- Report on Recruitment and Selection Procedures in Police and Fire Departments--Iowa
- Bigotry and Violence in Idaho
- Battered Women in Hartford: Six Years Later--Connecticut
- Industrial Revenue Bonds in Illinois
- Community Forums in Louisville and Lexington, Kentucky on Discrimination and Desegregation in Public Housing Projects
- Community Forum on Equal Employment Opportunity in the North Carolina State Government
- Community Forum on Black Electoral Participation in Georgia
- Community Forum on the Exclusion of Women from All-male Eating Clubs at Princeton University, --New Jersey
- Two Community Forums on Bigotry and Violence, Housing and Employment--New York
- Community Forum on Handicap Discrimination --Maryland
- Two Community Forums on Violence and Bigotry --Pennsylvania

REPORTS ON THE ADEQUACY/INADEQUACY OF THE EXISTING LEGAL PROTECTIONS OF CIVIL RIGHTS

1. HEARING ON THE PROTECTION OF HANDICAPPED NEWBORNS

The June 1985 hearing on the protection of handicapped newborns had three objectives: First, the primary fact-finding objective, to determine the nature and extent of the withholding of medical treatment or nourishment from handicapped newborns; second, the adequacy of legal protections for such infants under the Child Abuse

Amendments of 1984 and Section 504 of the Rehabilitation Act of 1973 and, third, what the Federal government should do. The latter issue, particularly, has given rise to sharp disagreements. On the one hand, the Administration has acted on the view that the failure of any hospital receiving Federal financial assistance to provide medical services to a newborn infant because that infant is handicapped constitutes discrimination. On the other hand, various organizations such as the National Association of Children's Hospitals have argued that considerations of family privacy and parental rights should be controlling in decisions about the appropriate care of handicapped newborns.

The Commission received testimony from numerous witnesses representing a wealth of experience and points of view: physicians, ethicists, nurses, social workers, parents of disabled children, representatives of medical and disability organizations, and Federal officials.

The transcript has been published. The record of the hearing has been kept open, however, because several Commissioners have expressed an interest in an additional mini-hearing in FY 1986 for more fact finding.

2. AFFIRMATIVE ACTION TOPICS IN EMPLOYMENT AND BUSINESS SET-ASIDES (Consultation and Hearing)

This two-day consultation and hearing, March 6-7, 1985, informed the Commissioners about affirmative action in employment and business set-asides with a wide variety of expert testimony devoted to the following topics:

First, the Commissioners heard testimony on the extent to which statistical measures of underrepresentation and underutilization actually reflect discriminatory practices from authorities as divergent as Professors Barbara R. Bergmann and Walter E. Williams. Papers on this topic were also received from the American Jewish Committee, the National Organization for Women, the Women's Legal Defense Fund, the Anti-Defamation League of B'nai B'rith, and the Mexican American Legal Defense and Education Fund.

Second, Commissioners heard testimony about the effectiveness of disadvantaged and women's business enterprise set-asides as a response to discrimination. This served as an occasion for eliciting research in an area where almost none has been done before. Papers covering everything from how to target set-asides more effectively to the alleged ineffectiveness of such set-asides in strengthening the competitiveness of disadvantaged and women's business enterprises were heard.

Third, on the issue whether affirmative action is an appropriate strategy for the future, the Commissioners heard everything from claims that affirmative action is effective in moving "protected workers to firms and job classifications where they have traditionally been least represented" to arguments in support of a non-preferential mode of affirmative action.

Volume I containing written papers and testimony was published early in Fiscal Year 1986; Volume II containing the transcript of the proceedings, including the hearing portion, will appear later in the year.

3. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Following are examples of SAC undertakings which were in progress in FY 1985:

- Disparities in Arkansas Juvenile Justice
- Migrant Workers in Delaware
- Migrant Workers on Virginia's Eastern Shore

MANUALS OR GUIDELINES TO PROVIDE PRIVATE CITIZENS WITH KNOWLEDGE OF THEIR CIVIL RIGHTS

1. DIRECTORY OF PRIVATE FAIR HOUSING ORGANIZATIONS

Initiated in FY 1984, the purpose of this directory is to identify private sources of assistance for persons experiencing discrimination in housing. The directory includes (1) names, addresses, telephone numbers, and contact persons of organizations working in fair housing who can help; (2) information about the number of paid and unpaid professional and support staff to give the discriminatee some idea of how much assistance to expect from the organization; and (3) an indication of the geographic areas covered and the specific kinds of help, for example, mediation, litigation, etc., available from each private source of assistance. Also included in the directory is a listing of agencies established by the Department of Housing and Urban Development (HUD) in areas where there are few or no private organizations to assist housing discriminatees--Community Housing Resource Boards (CHRBs). This publication will be released in FY 1986.

2. DIRECTORY OF STATE AND LOCAL FAIR HOUSING AGENCIES

This directory, published in March 1985, provides potential housing discrimination complainants with information about their rights and the remedies and procedures available through the State and local fair housing agencies. The information provided enables a complainant to make an informed decision concerning whether to follow the State and local administrative complaint procedure or to use the alternative Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) enforcement mechanism. This information is especially useful to persons in jurisdictions in which rights and remedies against housing discrimination have not been HUD-certified as "substantially equivalent" to the rights and remedies available under the Federal law. Four aspects of each State and local law are reviewed: classes of persons who may file complaints (for example, race, national origin, sex); the types of discriminatory conduct prohibited; exemptions from coverage(for example, "rooms rented in owner-occupied, single-family houses provided that no more than one boarder lives in the dwelling"); and the agency or agencies responsible for enforcement. The directory also describes the investigatory, complaint-resolving, and enforcement powers in the various jurisdictions. Published March 1985.

MAJOR RESEARCH EFFORTS DIRECTED AT A BETTER UNDERSTANDING OF WHAT IS NEEDED TO ACHIEVE A STABLE, MULTI-ETHNIC, MULTI-RACIAL SOCIETY

1. VOLUNTARY AND INVOLUNTARY METHODS OF SCHOOL DESEGREGATION

This demographic study, which began in FY 1984, examines how various desegregation methods (court-ordered and voluntary, magnet, pairing, clustering, and rezoning) affected the racial and ethnic isolation of public school students in 125 school districts across the country during the period 1967 to the present--a period when most of the major school desegregation plans were implemented. The project calls for the extensive and systematic collection of data on minority integration in each school in each district for each year; gathering the details of the various plans; and analyzing the effects of these plans on minority integration, taking into account both demographic changes that may have been precipitated by the plans as well as independent demographic trends. An eminent social scientist who reviewed the project said, "This is perhaps the most important research that the U.S. Commission on Civil Rights could undertake. The process of school desegregation is one of the most important issues of public policy of the past three decades. The current study would enhance considerably our understanding. It is developing an important new data set that will allow a wide variety of investigations to be conducted. The analytical plans are sound, and the policy questions are central to the entire area." Completion scheduled in FY 1987.

2. AFFIRMATIVE ACTION IN HIGHER EDUCATION

This report was intended to examine the effects that affirmative action policies have had on admissions, hiring, and academic standards in institutions of higher education. The investigation was to include a thorough review of the historical and legal development of affirmative action policies, programs, and enforcement activities applicable to academia; an investigation of the effects of affirmative action on different kinds of academic institutions; and a field inquiry including six or more case studies of how affirmative action has worked at various campuses. In view of limited resources and the need to reassess priorities, this project is currently undergoing internal review with an eye toward possible reduction in scope and expense. Recommendations to the Commissioners will be forthcoming soon.

3. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Following are examples of SAC undertakings which were in progress in FY 1985:

- Report on Police/Community Relations in Montgomery--Alabama
- Police/Community Relations in Omaha--Nebraska
- Community forum on the Aftermath of Race Rioting in Lawrence--Massachusetts
- Two community forums on the Impact of Proposed Highway Construction on an Integrated Neighborhood in Windsor--Connecticut
- Two community forums: one on Problems Confronting the Growing Southeast Asian Refugee Population in New Hampshire and the other on the Racial Climate in Portsmouth--New Hampshire

BIBLIOGRAPHIES AND CASE STUDIES

1. ANNOTATED BIBLIOGRAPHY ON SELECTED FAIR HOUSING ISSUES

The outgrowth of an internal policy document on fair housing iusues, this annotated bibliography presents a balanced list of the best available sources on the central legislative issues at stake in proposals to amend the Fair Housing Act (Title VIII of the Civil Rights Act of 1968). The following are the major sections of the bibliography: fair housing enforcement; the standard of proof for Title VIII violations (intent versus effect); remedies for Title VIII violations; and the possible extension of Title VIII coverage on the basis of handicap. Additional sections are devoted to background materials on fair housing policy and laws and other bibliographies.

2. TOWARD AN UNDERSTANDING OF _STOTTS_

This clearinghouse publication, released in January 1985, is devoted to a discussion of the implications of the United States Supreme Court's holding in _Firefighters Local Union No. 1784 v. Stotts,_ 104 S. Ct. 2576 (1984). The Supreme Court held in _Stotts_ that a court may not, under Title VII of the Civil Rights Act of 1964, order an employer to lay off employees with greater seniority in favor of employees with lesser seniority for the purpose of preserving a certain percentage of a racial minority in the work force and in disregard of a bona fide seniority system. The publication aims at increasing the public's understanding of the scope of a court's authority to order relief under Title VII for employment discrimination.

ACCOMPLISHMENTS TO DATE AND PLANS FOR THE REMAINDER OF FISCAL YEAR 1986

The following investigations, consultations and hearings, reports, studies, and fact finding activities by the Commission and SAC reports and projects are to take place or are to be started during fiscal year 1986:

ENFORCEMENT STUDIES

1. VOTING RIGHTS HEARINGS

These hearings, to be held in the rural South, are an on-the-spot opportunity for the Commission to assess the effectiveness of the Voting Rights Act of 1965 in granting minorities equal access to the political process. Nationally known experts in the field of civil rights, civil rights leaders, and local officials will be heard with three major questions in mind: (1) what have been the effects of the provision of the Voting Rights Act (Section 2) that outlaws discriminatory electoral systems?; and (2) what are the effects of run-off primaries on minority access to the political process?

2. HEARINGS ON THE ADMINISTRATION OF AMERICAN INDIAN TRIBAL COURT JUSTICE

The purpose of the hearings, to be held in or near Indian reservations, will be to: (1) investigate allegations concerning due process and equal protection clause violations of the Indian Civil Rights Act of 1968 in the administration of Indian tribal court justice; (2) determine the reasons for such violations; and (3) identify and recommend possible solutions aimed at eliminating actions infringing on the constitutional safeguards of Americans by virtue of their membership or association with an American Indian Tribe.

3. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Work on the following SAC undertakings began in FY 1986:

- Native Hawaiian Homelands
- Civil Rights Laws and Methods of Enforcement in Vermont
- Indian Civil Rights in Montana Jails
- Fair Housing Remedies in Parma, Ohio
- Enforcement of Fair Housing Laws in California

Work on these SAC projects began in FY 1986, and most of them will be brought to a conclusion during FY 1987. Numerous other SAC projects will be originated, considered, and begun during this period as well.

ANALYTIC STUDIES OF THE NATURE AND EXTENT OF DISCRIMINATION

1. INCOMES OF AMERICANS: ETHNIC, RACIAL, AND SEX DIFFERENCES

Following are listed the new studies under this project that are to begin this fiscal year:

a. An analysis of the economic status of Asian Americans and Hispanic Americans which is to be substantially completed this fiscal year.

b. The effect of affirmative action on minority employment and earnings

c. The determinants of poverty among racial and ethnic minorities

d. The determinants of employment and earnings among teenage racial minorities

2. STUDENT DISCIPLINE

In viewing the response of the nation's schools to calls for more discipline, some observers have expressed the fear that discrimination may account for the fact that minority students seem to be receiving a larger share of such discipline than white students. This new study will look at the relevant data--the literature, court cases, Office of Civil Rights, Department of Education survey data on school suspensions, and the results of field investigations--to identify the factors, including discrimination, that may account for these different discipline rates.

3. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Work on the following SAC undertakings began in FY 1986:

- Casino Employment in Nevada
- Discrimination in Employment of Hispanics by Municipal Government--Illinois

Work on these SAC projects began in FY 1986, and most of them will be brought to a conclusion during FY 1987. Numerous other SAC projects will be originated, considered, and begun during this period as well.

REPORTS ON THE ADEQUACY/INADEQUACY OF EXISTING CIVIL RIGHTS PROTECTIONS

1. ISSUES IN HOUSING DISCRIMINATION CONSULTATION/HEARING

In November 1985 the Commission held a consultation/hearing on Federal fair housing efforts, which have long been criticized as ineffectual in eliminating discrimination in housing in both the public and private sectors.

The first issue addressed by the Commission set the framework for the consultation/hearing--what are the causes of racial discrimination in housing? Some panelists believed that discriminatory practices such as racial steering are the leading cause of housing segregation; other panelists pointed to racial preference;

and still others attributed the problem to differences in income and educational levels. The Commission also focused on the standard of proof for establishing housing discrimination: should evidence of intent to discriminate be required, or should an effects-based test be used? Third, the Commissioners heard opposing viewpoints on the use of racial occupancy controls to avoid the "resegregation" of neighborhoods and apartment buildings. Among the witnesses who spoke to this issue was the defendant's expert in the Starrett City case. The final topic was the enforcement picture: what are Federal agencies with enforcement authority doing, and what do these agencies believe should be done in the future to eliminate segregation in housing? The consultation/hearing also featured important public witnesses who expressed different positions on housing discrimination issues: John Knapp, General Counsel for the Department of Housing and Urban Development, and William Bradford Reynolds, Assistant Attorney General, head of the Civil Rights Division at the Department of Justice.

Release of the papers is scheduled for May 1986, and staff work on the Commission's report is scheduled for completion later in the fiscal year.

2. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

Work on the following SAC undertakings began in FY 1986

. School Dropout Rates of Native Alaskan Students

Work on this SAC project begain in FY 1986 and will brought to a conclusion during FY 1987. Several other SAC projects in this category will be originated, considered, and begun during this period as well.

MAJOR RESEARCH EFFORTS DIRECTED AT A BETTER UNDERSTANDING OF WHAT IS NEEDED TO ACHIEVE A STABLE, MULTI-ETHNIC, MULTI-RACIAL SOCIETY

1. ISOLATION OF HISPANIC STUDENTS

Recent research has indicated a trend towards increasing isolation of Hispanic students in public schools. The purpose of this new study is to analyze (1) the causes of this isolation and (2) the effectiveness of various steps taken to counteract it. Relevant legal materials and enrollment and demographic data, including the elementary and secondary school surveys conducted by the Office of Civil Rights, Department of Education, will also be considered.

Following are the investigations, reports, studies, fact finding, consultations, and hearings by the Commission and SAC reports, projects, and community forums that were carried over from fiscal year 1985 into fiscal year 1986. All are classified according to purpose.

ENFORCEMENT STUDIES

1. FEDERAL EQUAL EMPLOYMENT ENFORCEMENT

2. REDISTRICTING AND MINORITIES

3. STATE CIVIL RIGHTS ENFORCEMENT IN VOCATIONAL REHABILITATION PROGRAMS

4. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

The following SAC undertakings, carried over from FY 1985, are currently in progress, and work on most of them will be completed during FY 1986.

- Report on Reapportionment in Rhode Island
- Report on Civil Rights Enforcement by State Education Agencies in Kansas, Nebraska, Iowa, and Missouri
- Report on Kansas Civil Rights Agencies
- Report on Missouri Human Rights Agencies
- Report on Surface Transportation Act--Central States Regional Office (Kansas, Nebraska, Iowa, and Missouri)

- Report on Statewide Conference on Civil Rights--Delaware
- Community Forum: Blacks in the Electoral Process in the Cities of Eutaw, Alabaster and Anniston--Alabama
- Community Forum: Black Participation in the Electoral Process in Georgetown County and City--South Carolina
- Minorities and Women as Government Contractors in Kansas
- Statewide Conference on Civil Rights Complaints and Compliance--Virginia

ANALYTIC STUDIES ON THE NATURE AND EXTENT OF DISCRIMINATION

1. INCOMES OF AMERICANS: ETHNIC, RACIAL, AND SEX DIFFERENCES

Three separate studies under this project were begun in 1985 and will be completed in 1986: earnings and employment differences between black and white males; earnings and employment differences between women and men and between black and white women; and racial differences in the quality and quantity of schooling. (Other studies to be started in 1986 are described under new projects.)

2. VIOLENCE AND BIGOTRY AGAINST ASIAN AND PACIFIC ISLAND AMERICANS

Internal editorial review in progress.

3. EMPLOYMENT OF AMERICANS OF EASTERN AND SOUTHERN EUROPEAN ANCESTRY

Undergoing internal editorial review.

4. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

The following SAC undertakings, carried over from FY 1985, are currently in progress, and work on most of them will be completed during FY 1986.

- Report on Community Forum on Racial Violence in Boston--Massachusetts
- Report on Women and Minorities in the Media in Georgia
- Report on Recruitment and Selection Procedures in Police and Fire Departments--Iowa
- Report on Social Indicators of Equality in South Dakota
- Community Forum: Equality of Municipal Services in Tunica, Mississippi
- Community Forum: Equity Issues in Special

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Education--Maryland
- Industrial Revenue Bonds in Illinois
- Bigotry and Violence in Idaho

REPORTS ON THE ADEQUACY/INADEQUACY OF THE EXISTING LEGAL PROTECTIONS OF CIVIL RIGHTS

1. HEARING ON THE PROTECTION OF HANDICAPPED NEWBORNS

2. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

   The following SAC undertaking, carried over from FY 1985, is currently in progress and work will be completed during FY 1986.

   - Battered Women in Hartford--Six Years Later--Connecticut

MANUALS OR GUIDELINES TO PROVIDE THE PRIVATE CITIZENS WITH KNOWLEDGE OF THEIR CIVIL RIGHTS

1. DIRECTORY OF PRIVATE FAIR HOUSING ORGANIZATIONS

   Undergoing internal editorial review.

MAJOR RESEARCH EFFORTS DIRECTED AT A BETTER UNDERSTANDING OF WHAT IS NEEDED TO ACHIEVE A STABLE, MULTI-ETHNIC, MULTI-RACIAL SOCIETY

1. VOLUNTARY AND INVOLUNTARY METHODS OF SCHOOL DESEGREGATION

   Substantial progress is being made on this project during FY 1986.

2. AFFIRMATIVE ACTION IN HIGHER EDUCATION

   In view of limited resources, and the need to reassess priorities, this project is currently undergoing internal review with an eye toward possible reduction in scope and expense. Recommendations to the Commissioners will be forthcoming soon.

3. STATE ADVISORY COMMITTEE (SAC) REPORTS, PROJECTS, AND COMMUNITY FORUMS

The following SAC undertakings, carried over from Fy 1985, are currently in progress and work on most of them will be completed during FY 1986.

- Report on Police/Community Relations in Montgomery--Alabama
- Police/Community Relations in Omaha--Nebraska

BIBLIOGRAPHIES AND CASE STUDIES

1. ANNOTATED BIBLIOGRAPHY ON SELECTED FAIR HOUSING ISSUES

The project is nearing completion: a revised bibliography is now under internal review and a completed document will be released later this year.

PROPOSALS FOR FISCAL YEAR 1987

The following new investigations, consultations and hearings, reports, studies, fact finding by the Commission, and SAC reports, projects, and community forums are proposed for fiscal year 1987.

ENFORCEMENT STUDIES

1. CIVIL RIGHTS ATTORNEYS' FEES PROJECT

   The purpose of this new project is to determine whether the scope or implementation of the Civil Rights Attorney's Fees Awards Act of 1976 should be altered. Research will focus on: (1) the legislative history of the Act, (2) implementation of the Act by the courts, and (3) the fee practices of the private civil rights bar, publicly-funded legal organizations, and other "public interest" legal organizations. Legislative recommendations to the Congress and the White House may be made as a result of this project.

2. SAC PROJECTS

   In addition, the SACs will carry over relevant projects from FY 1986 and new projects in this classification will be originated, considered, and begun during this period.

ANALYTIC STUDIES ON THE NATURE AND EXTENT OF DISCRIMINATION

1. PATTERNS OF RACIAL CHANGE IN HOUSING

   Despite the passage of State laws and national legislation prohibiting discrimination in the sale and rental of housing, the residential segregation of racial groups remains widespread in the United States. This study will assess the role of such factors as income differences between blacks and whites, racial discrimination, public policy (for example, suburban zoning ordinances and school desegregation plans), and individual preferences in perpetuating patterns of residential segregation of racial and ethnic groups. Based on an analysis of the research involved, recommendations may include changes in Federal policy and laws to help counteract residential segregation of racial and ethnic groups.

2. DISCRIMINATION AGAINST THE ELDERLY

The major purpose of this consultation is to assess the extent of age discrimination in society with a primary focus upon the nature of the discrimination itself. The consultation will consider the social and legal implications of mandatory retirement schemes and gather data on the relationship between aging and productivity. An examination of the kind of legislative response most appropriate for countering age discrimination will be a major feature of this investigation. In addition, observations are to be offered covering enforcement of the present Age Discrimination in Employment Act of 1967, for example, how well it is being enforced, and the related question -- whether age classifications should be accorded strict or intermediate judicial scrutiny.

3. TESTING VALIDITY IN EMPLOYMENT AND EDUCATION

Due to the differential impact of some employment and educational tests on blacks and whites, claims are made that reliance by employers and schools on test results may be discriminatory. Taking such claims as its starting point, this study will explore such questions as: (1) the current state of knowledge concerning the validity of educational and occupational testing; (2) the effectiveness of tests for assessing achievement and predicting future performance in school and on the job; and (3) in what senses testing may be said to be fair or unfair, discriminatory or nondiscriminatory. Since the existing literature on testing is huge, no effort will be made to gather new data, but rather to digest and pull together insights from the literature.

4. RACIAL DISCRIMINATION IN THE ADMINISTRATION OF JUSTICE

Focusing primarily on the arrest and sentencing stages in State criminal justice systems, this project will examine whether blacks are treated equitably compared to whites arrested and/or sentenced for similar offenses. Of particular interest will be the presence of any significant differences between the arrest rates or the seriousness of the charges or in the severity of the sentences meted out; and, then, what factors, including racial discrimination, account for such differences; and, finally, the extent to which these factors relate to or constitute civil rights violations.

5. PREJUDICE IN AMERICA: ATTITUDES ABOUT RACE

The purpose of this project is to learn more about the foundation of effective civil rights laws and policies--the prevalence of widely held beliefs and attitudes supportive of the interests of minorities. For example, public opinion polls show a liberalization of attitudes towards minorities over the last forty years. However, many race-conscious policies, such as affirmative action and busing, are premised on the belief that this liberalization has not gone far enough--that anti-discrimination remedies alone are still not sufficient to protect minorities. Accordingly, this study will investigate current racial attitudes and practices of Americans in general, and will analyze how recent initiatives such as affirmative action have affected the racial attitudes of the general public and specific groups of decision makers.

6. ADDITIONAL HEARINGS

There will be at least two additional hearings and consultations during FY 1987. Among the topics under consideration are selected aspects of religious discrimination and the nature and extent of organized hate group activity.

7. SAC PROJECTS

In addition, the SACs will carry over relevant projects from FY 1986, and new projects in this classification will be originated, considered, and begun during this period.

REPORTS ON THE ADEQUACY/INADEQUACY OF EXISTING LEGAL PROTECTIONS OF CIVIL RIGHTS

1. OVERVIEW OF THE STATUS OF CIVIL RIGHTS IN THE UNITED STATES

Despite the revolution in civil rights law and policy that has occurred in recent decades, significant differences in incomes, in educational attainments, and in unemployment rates exist between blacks and whites. Some attribute such differences to discrimination, either past or present. Others claim that such socioeconomic differences have little to do with civil rights, but are, rather, a matter for appropriate social and economic policies. This project will attempt: (1) to examine the original principles that guided the civil rights movement as expressed from World War II to the early 1960s; (2) to identify changes that occurred in the objectives of the civil rights movement as major legislative and judicial goals were attained in the 1960s; (3) to assess the extent to which early civil rights movement objectives remain unrealized; and (4) using the newly available data on the causes of socioeconomic disparities, to evaluate the utility of further civil rights law in addressing current social ills. This overview of the status of civil rights will encompass the full statutory jurisdiction of the Commission. The report issuing from this study should be useful to the Congress in its deliberations over the agency's reauthorization (the present authorization expires in 1989). Initial planning of this project is to be conducted in FY 1987.

2. SAC PROJECTS

In addition, the SACs will carry over relevant projects from FY 1986, and new projects in this classification will be originated, considered, and begun during this period.

MAJOR RESEARCH EFFORTS DIRECTED AT A BETTER UNDERSTANDING OF WHAT IS NEEDED TO ACHIEVE A STABLE, MULTI-ETHNIC, MULTI-RACIAL SOCIETY

1. SAC PROJECTS

The SACs will carry over relevant projects from FY 1986, and new projects in this classification will be originated, considered, and begun during this period.

Following are the investigations, consultations and hearings, reports, studies, fact finding by the Commission and SAC reports and projects that are to be carried over from fiscal year 1986, classified according to purpose:

ENFORCEMENT STUDIES

1. FEDERAL EQUAL EMPLOYMENT ENFORCEMENT

   This project is scheduled for completion this fiscal year.

2. REDISTRICTING AND MINORITIES

   This project is scheduled for completion this fiscal year.

3. STATE CIVIL RIGHTS ENFORCEMENT IN VOCATIONAL REHABILITATION PROGRAMS

   This project is scheduled for completion this fiscal year.

ANALYTIC STUDIES ON THE NATURE AND EXTENT OF DISCRIMINATION

1. INCOMES OF AMERICANS: ETHNIC, RACIAL, AND SEX DIFFERENCES

   The seven separate studies comprising this project are scheduled to be completed by the end of FY 1987.

2. STUDENT DISCIPLINE

   This project will be continued in FY 1987.

MAJOR RESEARCH EFFORTS DIRECTED AT A BETTER UNDERSTANDING OF WHAT IS NEEDED TO ACHIEVE A STABLE, MULTI-ETHNIC, MULTI-RACIAL SOCIETY

1. VOLUNTARY AND INVOLUNTARY METHODS OF SCHOOL DESEGREGATION

   This project is scheduled to be completed in FY 1987.

2. ISOLATION OF HISPANIC STUDENTS

Mr. **Dwyer**. Chairman Pendleton, do you have a statement you would like to present at this time? Please proceed at your own pace.

Mr. **Pendleton**. Thank you, Mr. Chairman. As you indicated, my name is Clarence M. Pendleton, Jr., Chairman of the U.S. Commission on Civil Rights. With me is J. Al Latham, Jr., the new Staff Director; Susan Morris, Assistant Staff Director for Programs and Policy; Albert Maltz, Assistant Staff Director for Administration; William Howard, Deputy General Counsel; and Jane Mayne, Budget Officer.

I am pleased to appear before you today to testify in support of the President's request for $12,576,000 and 233 full-time equivalent positions for fiscal year 1987. The appropriation for fiscal year 1986 was $12,300,000, but under the sequestration order pursuant to Public Law 99-177—Gramm-Rudman-Hollings—$529,000 was sequestered from our 1986 appropriation. Therefore, our funding level for the current year is $11,771,000. The fiscal year 1987 request represents an increase of $805,000 over the adjusted fiscal year 1986 appropriation.

In order to save time, Mr. Chairman, I will just submit my full statement for the record, but I would like to turn to page 3 of the statement to discuss the impact of Gramm-Rudman-Hollings.

As the staff director pointed out in his cover letter to the request for appropriation, the commission is a labor-intensive agency. Seventy percent of our budget is directly related to personnel costs, and 20 percent is dedicated to such fixed costs as rent and annually contracted equipment maintenance. A small agency, such as the commission, with 90 percent of the budget devoted to nondiscretionary items, is obviously impacted substantially by the fiscal year 1986 Gramm-Rudman-Hollings sequestration. Nevertheless, as the staff director pointed out in his letter, every effort is being made to cut costs without conducting a reduction-in-force. For the remainder of fiscal year 1986, and on into future years, programmatic flexibility will be essential to meeting our statutory responsibilities while living within our budgetary means.

Mr. Chairman, I will stop there, and if you have questions of me or the staff director we will be glad to respond, sir.

GRAMM-RUDMAN-HOLLINGS SEQUESTRATION

Mr. **Dwyer**. Mr. Pendleton, with the Gramm-Rudman cuts of $529,000 and you being a labor-intensive agency, how are you absorbing the money?

Mr. **Pendleton**. We have a chart that we have submitted. Let me turn to Mr. Latham, if you will, Mr. Chairman, to respond.

Mr. **Dwyer**. Mr. Latham.

Mr. **Latham**. Mr. Chairman, we of course are trying to cut costs in all the incidentals that we can, such as reducing overtime, reducing travel, reducing subscriptions that our various offices receive. One of the first resolutions I made after being sworn in, recognizing that we were going to be facing the budget problem this year, was to consolidate our Washington regional office with our Washington headquarters office. Although the lead time on that decision, in terms of the notice that we have to give, precludes us from saving as much money as I would like in fiscal year 1986, we will nevertheless save, for example, $10,000 on that, in fiscal 1986, and more in fiscal 1987 in terms of rental charges.

In addition, we have imposed a hiring freeze subject to certain necessary exceptions to be determined by me on a case-by-case basis. It is our intention to ask the Office of Personnel Management for authority to grant early-out retirement to those employees who voluntarily elect to take early out. However, we do not know whether OPM will respond favorably to that request. We understand they are trying to make the decision on that type of issue on a governmentwide basis.

Frankly, if all else fails, we will, toward the end of the fiscal year, have to take a hard look at the possibility of a furlough, but we have decided at this time not to conduct a reduction in force.

Mr. PENDLETON. Mr. Chairman, if you will, the necessity to continue along with the mission, the statutory mission of the agency, is critical, and I think as Mr. Latham has said, we want to make those adjustments in priority form that would allow us to keep on our mission, to complete the work we have before us, which is rather a full plate, and hopefully we will be able to complete those tasks that we have I guess in a sense assigned to ourselves.

Mr. DWYER. Do you anticipate submitting a reprogramming at some point in the future?

Mr. LATHAM. We don't anticipate a reprogramming at this time, Mr. Chairman.

Mr. DWYER. How about a supplemental?

Mr. LATHAM. No, sir.

Mr. DWYER. You have got the word not to even think about a supplemental?

Mr. LATHAM. I can't say that I have gotten that word, Mr. Chairman, but it has been my impression that they are not liberally granted, let me put it that way.

FY 1985 EARMARKINGS

Mr. DWYER. The 1985 appropriation act contained some earmarkings for specific activities contained in your agency's activities. Would you please provide for the record a discussion of how you managed to live within these earmarkings for fiscal year 1985? How many hearings did you conduct in fiscal year 1985? I will give you some more questions along these lines to provide for the record.

Mr. PENDLETON. Certainly, sir.

[The information follows:]

Response to Questions From Representative Bernard Dwyer

Question. The 1985 appropriation bill contained some earmarkings for specific activities contained in your agency's activities. Would you please provide for the record a discussion of how you managed to live within these earmarkings for fiscal year 1985, how many hearings did you conduct in fiscal year 1985.

Answer. As noted in testimony submitted to this Committee last year, the earmarks, which had the effect of establishing a separate appropriation for each of seven activities, adversely impacted the agency's overall mission. Specifically, they had the effect of freezing agency plans made nearly one and one half years earlier into program requirements unless a supplemental request to modify the earmarks were sought and approved by the Congress.

The earmarks hampered the Commission's ability to use government funds efficiently. Internal and external decisions affecting the agency's resources had to be conformed to the earmarks before being carried out. Such decisions included personnel transfers, hiring, contracting, and purchasing.

The additional recordkeeping required to meet earmarks involved many hours of staff time. The Commission is not equipped with a computerized accounting system, and these increasingly complex computations had to be done by hand. We had to devote many hours to keeping the equivalent of seven appropriations separate. Accounting concerns restricted flexibility in making work assignments. We found more time was spent adding figures against the seven activities during the fiscal year than analyzing better ways to utilize our funds. If we had not been restrained by, in essence, seven appropriations, there is no doubt we could have effectively obligated the $263,000 we were forced to return to the Treasury Department in order to stay within our earmarkings.

The Commission conducted two hearings during fiscal year 1985: Affirmative Action Topics in Employment and Business Set-Asides on March 6 and 7, 1985, and Protection of Handicapped Newborns in June 1985. Substantial preparation for a third consultation/hearing on Fair Housing Issues was also completed in FY 85. Delayed by changes in the Staff Director and General Counsel, the hearing itself was held in November 1986.

FY 1987 REQUEST

Mr. **Dwyer**. You are requesting an increase of $17,000 for personnel compensation and benefits. Yet you reflect a decrease of full-time equivalent of three positions. How can you have an increase related to personnel when you have lower levels of employment?

Mr. **Latham**. Principally step increases, Mr. Chairman. I believe that is reflected on page 5 of our justification.

Mr. **Dwyer**. Staff promotions, is that what you are saying?

Mr. **Latham**. Yes, sir, and periodic step increases for our employees.

Mr. **Dwyer**. You are requesting $120,000 for inflation. Would you tell us exactly what type of inflation and for what activities you anticipate these cost increases in 1987.

Mr. **Latham**. On that I would like to refer to our budget officer, who is here with us, Jane Mayne, if I may.

Ms. **Mayne**. We are expecting about a 4 percent inflation on non-personnel items, such things as travel, other services, supplies and equipment.

Mr. **Dwyer**. If the air fare war keeps on the way it is going, it will save you some money on air travel.

Mr. **Pendleton**. That means that we can get on the plane with the war going on. It doesn't always work that way.

Mr. **Dwyer**. If it goes far enough, you might be paid to fly.

Mr. **Pendleton**. We will take it.

Mr. **Dwyer**. You might need it.

Mr Pendleton, we have some questions that we will submit to you, and you will please provide us the answers for the record.

Mr. **Pendleton**. Glad to, Mr. Chairman. Thank you so much for your time.

Mr. **Latham**. Thank you, Mr. Chairman.

QUESTIONS FOR THE COMMISSION ON CIVIL RIGHTS

SUBMITTED BY REPRESENTATIVE BOB CARR

BUDGET FORMAT

Question 1: Why is your request for the FY 87 budget not submitted in the same format as last year's request?

Answer: The one-activity budget format is consistent with the President's budget submissions and affords the Commission two main advantages. First, it allows the Commission the flexibility necessary to operate under current and potential fiscal restraints while limiting the negative impact of these constraints on our program and staff. Second, the one-activity format realistically reflects the Commission's small size and the integrated nature of the agency's research and information-gathering missions. Additionally, this format will produce greater efficiency in the Commission's manual bookkeeping.

Assessing and responding quickly to changing needs is an integral part of social science research, and therefore is a key determinant of the Commission's need for a flexible budget. For example, if a research project is changed to a hearing, or requires more site visits than originally anticipated, the Commission needs to be able to make the necessary funding changes. Similarly, if a State Advisory Committee needs to address an unanticipated, rapidly developing civil rights problem, the Commission should be able to shift the resources necessary for the Committee's administrative support.

The multi-activity budget format that evolved in the past resulted in arbitrary budget categories that did not reflect the Commission's organization of projects or meet its ongoing need to reallocate funds as projects developed and progressed. The need for budgetary flexibility is especially important now, in a time of fiscal limitations and uncertainties.

COMMISSION RESPONSIBILITIES

Question 2: One of the Commission's statutory responsibilities is to monitor the Federal government's enforcement of civil rights laws, but there is no mention of a monitoring activity for the Commission. Why? The Background section of the RFA mentions this "charge" but this requirement is not being met by the Commission. How many comments on proposed regulations, guidelines, and other enforcement matters were prepared and issued by the Commission in FY 1985?

Answer: Monitoring activity at the Commission is referenced throughout the Commission's FY 87 Request for Appropriation. The most concentrated monitoring activity is performed in connection with the many enforcement studies that are presently underway (see pages 16-18, 26-27, and 34). One example is the Federal Equal Employment Enforcement Study, which is the first such study conducted by the Commission since 1977. It will assess developments at relevant Federal agencies that have been monitored by Commission staff for years.

Monitoring is indispensible to the Commission's ability to discharge its many responsibilities. It is not treated as an independent category to be undertaken only on specific occasions. Rather, monitoring civil rights enforcement and developments is an integral part of the daily work of the Commission at its headquarters and in the field.

In addition to the major studies conducted by both Commission staff and the State Advisory Committees,[1] Commission staff prepare memoranda on Federal court cases and legislation.[2] Comments on proposed regulations and correspondence with

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[1] An indication of the fruit of SACs' efforts is provided for each fiscal year in the Commission's FY 1987 budget request under the various classifications of research and studies.

[2] Please see "Briefing and Legal Memoranda" entry, "Selected Workload Factors," page 15 of the Commission on Civil Rights' FY 1987 budget request.

Federal officials dealing with civil rights enforcement[3] are some of the regular and ongoing monitoring activities conducted by the Commission staff. For example, comments on proposed FCC regulations implementing the equal employment opportunity provisions of the Cable Communications Policy Act were submitted on April 16, 1985.

The hearings, consultations, and various panels that the Commission has convened or scheduled during FY 1985 and FY 1986 involve active monitoring by Commissioners and staff and the participation of Federal enforcement agency officials.[4]

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[3] For example: Letter to Assistant Secretary for Civil Rights, Department of Education, requesting data on Title IX religious exemption requests that have been received by OCR and copies of procedural and substantive criteria used for evaluating these requests and other relevant materials (03-04-85). (A follow-up letter was sent 3-6-86.);

Letter to Secretary of Housing and Urban Development, requesting response to allegations in series of Dallas Morning News articles on segregation in public housing, the adequacy of civil rights enforcement in housing, and certain program operations of HUD (03-11-85);

Letters from the Staff Director to 9 Federal agencies requesting data on the effect, if any, of Grove City and Darrone on their civil rights enforcement activities (03-26-85); and

Letter to the Assistant Attorney General for Civil Rights, requesting information on Justice Department guidance, if any, to enforcement agencies concerning Grove City and Darrone (03-26-85).

[4] Hearing on the Protection of Handicapped Newborns; Affirmative Action Topics in Employment and Business Set-Asides; Voting Rights Hearings; Hearings on the Administration of American Indian Tribal Court Justice; and Issues in Housing Discrimination Consultation/Hearing. Also, panel presentations on civil rights issues affecting Arab Americans and enforcement of immigration laws in Texas.

BUDGET FORMAT

Question 3: What is the justification for abandonment of the budget activity structure? Given the controversy surrounding the Commission, earmarks should be reestablished, or at the very least the program activity structure should be maintained.

Answer: Please see answer to Question 1.

PERSONNEL

Question 4: It is my understanding that the Commission has imposed a freeze on hiring new personnel with limited exceptions "on a case-by-case basis." However, your personnel summary indicated that a substantial increase in personnel is planned. Why is there such a discrepancy?

Answer: The hiring freeze with limited exceptions was imposed when the Commission's FY 1986 appropriation was decreased by 4.3 % due to the Gramm-Rudman-Hollings sequestration. The personnel summary exhibit on page 11 of the FY 1987 Request for Appropriation is based on the following: For FY 1985 it shows actuals; for FY 1986 and FY 1987 it shows a ceiling OMB allowed the Commission, prior to the Gramm-Rudman-Hollings sequestration, which we cannot exceed.

Question 5: During FY '85 and '86, how many SES positions and Schedule C positions were created and filled?

Answer:

SES ALLOCATION ACTIONS
OCTOBER 1, 1984 TO MARCH 5, 1986

OPM ALLOCATION AS OF 09/30/84	CREATED AND FILLED FY 85/86*	OPM ALLOCATION AS OF 03/05/86
9	3	10

* OPM controls ceiling allocation, which was raised by one during this period from 9 to 10.

SCHEDULE C ACTIONS
OCTOBER 1, 1984 TO MARCH 5, 1986

AGENCY SCHEDULE C POSITIONS ENCUMBERED AS OF 09/30/84	AGENCY SCHEDULE C POSITIONS CREATED AND FILLED, FY 85/86**	AGENCY SCHEDULE C POSITIONS ENCUMBERED AS OF 03/05/86
10	15	12

** In most cases the Schedule C positions "created and filled" were upgrades or reassignments.

REPORTS

Question 6: What reports were completed in FY '85 and during this part of FY '86? What reports will be completed in FY '87?

Answer: Reports published in FY '85 and thus far in FY '86 were:

Comparable Worth: An Analysis and Recommendations

Directory of State and Local Fair Housing Agencies

Toward an Understanding of Stotts

Battered Women in Hartford: Six Years Later -- Connecticut

Bigotry and Violence in Idaho

Minorities and Women as Government Contractors in Kansas

Statewide Conference on Civil Rights Complaints Enforcement -- Virginia

Items currently planned for completion during the remainder of FY '86 and in FY '87 include:

Incomes of Americans: Ethnic, Racial, and Sex Differences (seven separate studies)

Violence and Bigotry Against Asian and Pacific Island Americans

Employment of Americans of Eastern and Southern European Ancestry

Directory of Private Fair Housing Organizations

Annotated Bibliography on Selected Fair Housing Issues

Discrimination in Housing: A Report of the U.S. Commission on Civil Rights

Federal Protections for Handicapped Newborns

Indian Tribal Justice: A Report of the U.S. Commission on Civil Rights

State Enforcement of Federal Nondiscrimination Requirements in Education Programs in Iowa, Kansas, Missouri and Nebraska

Report on the Surface Transportation Act -- Central States

Police/Community Relations in Omaha -- Nebraska

Police/Community Relations in Montgomery, Alabama

Industrial Revenue Bonds in Illinois

Redistricting and Reapportionment in Rhode Island

Social Indicators of Equality in South Dakota

Missouri Human Rights Agencies

Federal Equal Employment Enforcement

State Civil Rights Enforcement in Vocational Rehabilitation Programs

Voluntary and Involuntary Methods of School Desegregation

Redistricting and Minorities

A Report on the 1982 Amendments to the Voting Rights Act

Attorney's Fees and Civil Rights

Discrimination Against the Elderly

Access to Voter Registration and Polling Sites by Elderly and Disabled in New Hampshire

Directory on Municipal Civil Rights Enforcement Agencies in Rhode Island

Disparities in Arkansas Juvenile Justice

Casino Employment in Nevada

Employment of Hispanics by Municipal Governments in Illinois

Native Hawaiian Homelands

Human Rights Act of North Dakota

Enforcement of Fair Housing Laws in California

School Dropout Rates Among American Indian and Native Alaskan Students

Recruitment and Selection Procedures in Police and Fire Departments -- Iowa

Indian Civil Rights in Montana Jails

Fair Housing Remedies in Parma, Ohio

Equal Opportunity in High School Athletic Programs in Wyoming

Civil Rights Enforcement in Vermont

Voter Registration in Virginia

State and Local Civil Rights Agencies in Kansas

STUDIES/PROJECTS

Question 7: How far behind schedule are your studies? Please account for all delays. How much money was specifically spent on each study?

Answer: Studies published by the Commission on Civil Rights are frequently cited in court cases and/or used in drafting legislation. Thus a well-written and methodologically accurate work product is our first priority. If a need for additional research or rewriting is indicated, the internal deadline is changed rather than sacrifice the quality of the work product.

One frequently encountered problem, for example, is the unavailability of accurate and accessible data in the form needed for the particular study at hand. Revision of deadlines to accommodate such changing needs is integral to social science research and is historically true of work at the Commission.

Other factors that have affected schedules generally include changes in the Staff Director and General Counsel positions and the need to respond to external scrutiny of the agency's work (for example, responding to GAO's report on the Commission's Comparable Worth report).

Schedules have been adjusted for the following projects:

1. State Civil Rights Enforcement in Vocational Rehabilitation Programs

   Work on this study commenced in September 1983. Its initial target release date was September 1986. Reductions in the agency's travel budget, staff turnover, and a "crash" of the Commission's word processing system containing the interview reports and other information vital to the drafting of the report resulted in a new release date of March 1987. Direct cost estimate through February 1986--$540,000.

2. Violence and Bigotry Against Asian and Pacific Island Americans

   This study started in August 1984; a preliminary work product was produced in May 1985. Substantial revisions were indicated which required additional research, interviews, and analysis. The planned publication date of September 1985 was therefore revised to May 1986. Direct cost estimate through February 1986--$310,000.

3. Voluntary and Involuntary Methods of School Desegregation

Originally scheduled for completion in February 1986, this outside contractor-based study has incurred delay because the social science research unit that was conducting the study for the original contractor was phased out, requiring novation to a second contractor. Completion is now anticipated in FY 1987. Direct cost estimate through February 1986--$530,000.

4. Affirmative Action in Higher Education

The original completion date of February 1986 has not been met principally due to unanticipated difficulties in obtaining required quantitative data and staff turnover. The considerable work already completed is being evaluated as part of the current intensive review of the project, which originally anticipated costly site visits to colleges and universities. Upon completion of this review, a recommendation on the project will be made to the Commissioners. Direct cost estimate through February 1986--$360,000. (See answer to question 10.)

5. Incomes of Americans: Ethnic, Racial, and Sex Differences

This project continues to undergo format revisions principally due to data availability. Originally planned as one study, the proposed completion date was November 1985. As noted in the FY 87 Request for Appropriation, this project is now structured as seven separate studies, three of which are scheduled for completion in FY 1986; the remaining four are scheduled for completion in FY 1987 (see pages 18, 27, 30, and 31). Direct cost estimate through February 1986--$600,000.

6. Federal Equal Employment Enforcement

The Staff Director is reviewing the progress of this project and has requested a status report from the Project Director setting revised target dates for its work stages. Like many other Commission projects, this study has experienced some unanticipated staff turnover. The original completion date was set for November 1985; staff work on the report will be completed before the end of Fiscal 1986. Direct cost estimate through February 1986--$190,000.

7. Employment of Americans of Eastern and Southern European Ancestry

This study was first mandated by the Congress in October of 1979. A contractor was selected in October of 1981 to begin an extensive review and analysis of the relevant historical literature and statistical data. After producing four drafts which were found to be unsatisfactory by Commission staff, the contractor submitted a fifth draft in May of 1983.

Early in 1984, the Staff Director of the reconstituted Commission reviewed this draft and found that it was still unacceptable and unresponsive to the Congressional mandate.

Noting that after more than four years the Commission had not produced an acceptable draft, the Staff Director made the study a priority and assigned it to in-house staff.

The study was redesigned, and the principal report is now near completion; release is expected by the current target date of July 1986. Direct cost estimate from February 1981 through September 30, 1983--$111,149. Direct cost estimate from March 1984 through February 1986--$120,000.

8. Annotated Bibliography on Selected Fair Housing Issues

Background research for the bibliography began in April 1985. The computer system malfunction (referred to above), competing supervisory work priorities, and staff illness have contributed to delay of the project. The originally scheduled completion date was September 1985, and completion is now expected in the near future. Direct cost estimate through February 1986--$40,000.

Question 8: In your Incomes of Americans study, are racial differences in the quality and quantity of schooling still variables in this study? If not, why? Is the study still being conducted in-house? Are there any consultants on this project?

Answer: Racial differences in the quality and quantity of schooling are important factors that are being investigated for the Incomes of Americans project. (See p. 18 of the Commission on Civil Rights' FY 1987 budget request, where the third study listed is: "racial differences in the quality and quantity of schooling.") An analysis specifically devoted to the racial differences in the quality and quantity of schooling will also be included in the black/white earnings paper (earnings and employment differences between black and white males), which will be out this fiscal year.

The project is being conducted in-house, and, in addition, advice and comment on the project has been received from seven (7) individuals serving as consultants, who are:

Professor Glen Cain, Economist, University of Wisconsin

Professor Barry Chiswick, Economist, University of Illinois at Chicago Circle

Professor Claudia Goldin, Economist, University of Pennsylvania

Professor Glen Loury, Economist, Harvard University, on leave to the Institute for Advanced Study, Princeton, New Jersey

Professor Jacob Mincer, Economist, Columbia University.

Professor Stephan Thernstrom, Historian, Harvard University

Professor Finis Welch, Economist, UCLA

Question 9: What is the status of the study: Violence and Bigotry Against Asian and Pacific Island Americans?

Answer: The written staff work was submitted to the Staff Director on March 7, 1986, for his review. On February 28, 1986, relevant portions of the study were also sent to the Community Relations Service at the Department of Justice, the Office of Refugee Resettlement at the Department of Health and Human Services, and the Bureau of Refugee Programs at the State Department for "affected agency review." These offices were asked to submit any comments to the Commission by March 14, 1986.

Assuming that any comments by the affected agencies require minimal revision, it is expected that the study will be mailed to the Commissioners in late March.

Question 10: For the project Affirmative Action in Higher Education, it is my understanding that the project is undergoing internal review and a possible reduction in scope and expense. Why didn't the Commissioners and staff who reviewed the research design almost two years ago recommend that the scope be limited? What was the justification for not taking these recommendations into consideration? How much has been spent on this project?

Answer: Reassessment of studies is common to social science research and has happened before at the Commission. Certainly a prudent assessment to discontinue or alter a study when it is learned that it would be overly costly or not viable in some way is preferable to continuing.

One previous example is an earlier Commission study on school desegregation: a request for proposal was issued in May 1973, and a contractor was selected. The work was reviewed in November 1973 and again in January 1974. Commissioners and staff expressed reservations, but work continued on the project design, which in September of 1974 proposed a study costing $9 to $15 million. Debate continued throughout 1975, and in January 1976 the Commissioners voted not to proceed with the project. At that point the Commission had spent $157,000 (about $350,000 in today's dollars) on the project design (the largest contract the agency had awarded up to that date), $15,000 ($33,000 in today's dollars) in evaluations, and an uncalculated sum in staff resources.

As previously described, the Affirmative Action project is presently being reevaluated. However, should the Commission decide to end the project or reduce its scope, the data gathered to date will still be utilized. As part of the current review of the project, work already completed is being evaluated for possible incorporation into other relevant research or publication as a separate product. Direct cost estimate to date--$360,000.

DEFINITION OF TERMS

Question 11: Please define the following terms used in your request: "Accomplishments," "Analytic Studies of the Nature and Extent of Discrimination," "Reports on the Adequacy/Inadequacy of Existing Legal Protections."

Answer:

"Accomplishments" refers to substantial progress on or completion of a study, report, or a consultation/hearing.

The classification, "Analytic Studies on the Nature and Extent of Discrimination," indicates research aimed at identifying the sources of income differences and other socio-economic differentials between minorities and non-minorities, between women and men, and between ethnic groups. The role of discrimination is assessed as well as the effects of government anti-discrimination policies.

The classification, "Reports on the Adequacy/Inadequacy of Existing Legal Protections of Civil Rights," covers studies and consultation/hearings aimed at determining whether the scope of existing legal protections of civil rights, for example, of handicapped newborns, is adequate or in need of revision.

QUESTIONS FOR THE COMMISSION ON CIVIL RIGHTS

SUBMITTED BY REPRESENTATIVE GEORGE O'BRIEN

INFLATION

Question 1: In FY 1987, you are requesting $120,000 for adjustments in inflation. In what areas are there major increases?

Answer: The 4% inflation adjustments are for all nonpersonnel costs. This includes travel, transportation, rent, communications, printing, other services, supplies and equipment.

GRAMM-RUDMAN-HOLLINGS SEQUESTRATION

Question 2: In accordance with the provisions of Gramm-Rudman-Hollings, $529,000 was sequestered from the Commission's FY 1986 appropriated funds. What impact will this have on personnel levels? What about programs?

Answer: One of the new Staff Director's top priorities was a comprehensive review of the budget of the agency in light of the constraints posed by the Gramm-Rudman-Hollings sequestration. Several cost-cutting measures were implemented, including space reduction and a freeze on hiring new personnel subject to limited exceptions on a case-by-case basis.

As indicated in our FY 1987 Request for Appropriation cover letter and our opening statement, we are a labor-intensive agency (70% personnel, 20% fixed costs, and only 10% discretionary). A small agency, such as the Commission, with 90% of the budget devoted to nondiscretionary items, is obviously impacted substantially by the FY 1986 Gramm-Rudman-Hollings sequestration. Nevertheless, we have elected not to have a reduction-in-force at this time, but to attempt to carry out the agency's mission while reducing costs in all other possible ways. The agency intends to seek voluntary early retirement authority from the Office of Personnel Management. As a last resort, a furlough is possible toward the end of the fiscal year.

Concerning the programmatic effect, a review of projects presently underway is being conducted to identify projects for possible elimination or reduction in scope. At the January Commission meeting, one previously planned FY 1987 study was eliminated.

PERSONNEL

Question 3: What is the Commission's current personnel level?

Answer:

Staffing Level	Number
Commissioners	8
Permanent fulltime (includes those in the excepted service serving without time limitation)	178
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Temporary part-time (includes those in the excepted service serving with time limitation)	3
Intermittent (includes those in the excepted service, but does not include those appointed as consultants)	7
Consultants	23
Total appointees	235

Question 4: I note in the salaries and expenses section of your budget submission that the projected FTE level for FY 1987 is 233 in comparison to 236 in FY 1986. What accounts for the loss of 3 FTE's?

Answer: That number is an FTE ceiling imposed by OMB which the Commission may not exceed. OMB has decreased our FTE ceiling by 3 for FY 1987.

CONGRESSIONAL REQUESTS

Question 5: Does the Commission receive requests from Congress for studies and investigations concerning various matters within its purview?

Answer: The Commission receives inquiries from Congress in several forms. First, a large number of requests for publications and substantive information, including information on the Commission's positions on various issues, are routinely received each year. In addition, PL 98-183, which authorizes the Commission through November 30, 1989, includes language specifically directing the Commission to report to Congress on "...the laws and policies of the Federal government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of Eastern and Southern European ethnic groups...." This is the Commission's only specifically legislated study or report.

More recently, the work of the Commission has been subjected to intense Congressional review. Responding to the resulting requests for information has involved Commission staff in extensive research and preparation of materials for submission to Congress.

BUDGET FORMAT

Question 6: In the letter from Commission Staff Director J. Al Latham, Jr., accompanying the Commission's FY 1987 budget request, the need for programmatic flexibility is emphasized. In order to permit greater flexibility concerning the use of funds within various activities you have formatted your submission as one activity. Please explain the relative advantages of this change. Do you anticipate submitting a reprogramming request in the near future?

Answer: Please see response to Congressman Carr's Question #1. Additionally, we do not anticipate a reprogramming request.

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